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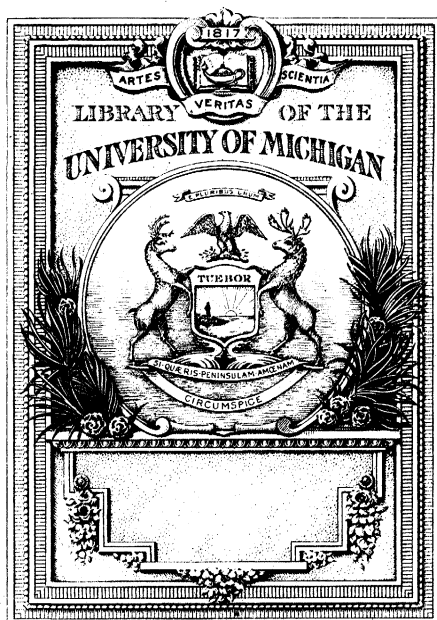
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JUN 18 1926

# THE PHILIPPINE ISLANDS

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## HEARING

*U. S. Congress, House.*

BEFORE THE

COMMITTEE ON INSULAR AFFAIRS.

HOUSE OF REPRESENTATIVES

SIXTY-NINTH CONGRESS

FIRST SESSION

ON

**H. R. 10940**

A BILL TO AMEND AND CLARIFY EXISTING LAWS  
RELATING TO THE POWERS AND DUTIES OF THE  
AUDITOR FOR PORTO RICO AND THE AUDITOR  
FOR THE PHILIPPINE ISLANDS

**H. R. 11617**

A BILL TO AMEND AND CLARIFY EXISTING LAWS  
RELATING TO THE POWERS AND DUTIES OF THE  
AUDITOR FOR THE PHILIPPINE ISLANDS

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APRIL 26, MAY 10 AND 21, 1926



WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1926

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### HOUSE OF REPRESENTATIVES

#### SIXTY-NINTH CONGRESS

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# THE PHILIPPINE ISLANDS

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Monday, April 26, 1926.*

The committee this day met, Hon. Edgar R. Kiess (chairman) presiding.

The CHAIRMAN. The committee will come to order. We will hear from the Resident Commissioner of the Philippines.

## STATEMENT OF HON. PEDRO GUEVARA, RESIDENT COMMISSIONER OF THE PHILIPPINE ISLANDS

Mr. GUEVARA. Mr. Chairman and gentlemen of the committee, I wish to extend in the record a petition which I have here.

Mr. BACON. What is this petition about?

Mr. GUEVARA. This petition is asking for the postponement of the consideration of this bill for the next session of Congress.

(The petition referred to is as follows:)

### PRELIMINARY STATEMENT ON THE BILL TO "AMEND AND CLARIFY EXISTING LAWS RELATING TO THE POWERS AND DUTIES OF THE AUDITOR FOR THE PHILIPPINE ISLANDS"

APRIL 26, 1926.

A brief examination of the bill convinces us that it contains provisions of highly controversial nature. Those provisions raise such important questions of policy that it seems the part of wisdom not to have them finally decided upon during the short time that remains before the adjournment of Congress.

There are no urgent reasons that call for enactment at this time. On the other hand, the existing laws governing the auditor's office in the Philippines have been on the whole in successful operation for over 20 years.

The bill affects the duties of various administrative officers of the Philippine government and would involve additional appropriation for new positions and increased salaries. If it be passed during this session of Congress there would be no opportunity for full consultation with the Philippine Legislature and the Philippine administrative officials, whose duties would be affected by the law, or for a thorough examination of the issues raised by the provisions of this bill.

In giving the auditor of the Philippines a salary equal to that of the Comptroller General of the United States and in creating the position of three assistant auditors, at \$6,000 each per annum, it would conflict with the principle of economy followed not only by the Philippine government but also by the American Government as well. The auditor of a government which spends not more than \$35,000,000 a year for the central administration would receive a salary as large as that of the Comptroller General of the United States Government, the appropriations for which total over \$3,000,000,000 annually. Such disproportionate salary would be paid with Philippine public funds but without the indorsement of the Filipino people or their representatives.

There is in this bill no limitation on the authority of the auditor for the Philippines which would make his power less than that of the Comptroller General of the United States, but on the contrary, the bill seeks to confer upon

him very important additional powers. The law, as it stands at present, gives the auditor of the Philippines greater powers than the Comptroller General of the United States. To increase those powers still, in view of the present political situation in the Philippines, would seem to be unwise and would be a step not calculated to produce greater harmony in the administration.

Under the proposed bill, the auditor of the Philippine Islands would occupy a place in the Philippine government entirely unlike that of the Comptroller General of the United States. He will be above the courts and the legislature. He will exercise functions not given to the Comptroller General. Furthermore, the latter official is responsible to the Congress of the United States. The auditor of the Philippines, with much greater powers, would exercise those powers without the slightest intervention of the representatives of the Filipino people. This is certainly a step not in harmony with the policy of granting the Filipinos ever-increasing self-government enunciated by President McKinley and followed by his successors.

The Jones law makes the auditor's decisions binding upon the executive departments only. It does not close the door to judicial determination. Under the proposed law the "adjustments, decisions, and settlements" made by the auditor will be final and conclusive, subject only to appeal to other executive officials. This, we venture to say, is something entirely out of harmony with American political principles and practices.

In removing the right to make final decisions on appealed cases from the Secretary of War and placing it in the hands of the Comptroller General, a very important departure in the policy governing the administrative system, which has been in operation for almost 30 years, is made. It may be the entering wedge for placing the contacts between the Philippine government and the American Government through many departments or bureaus instead of concentrating them in one department.

Because of these considerations, involving as they do very important questions and upon which legitimate differences of opinion are certain to arise, and in view of the lack of time to consider fully these very important points of policy, we request the committee to postpone consideration of the bill until the next session of Congress. The President of the United States has just announced the appointment of a commissioner to investigate Philippine affairs and to report not later than November. What harm can there be in withholding action on legislation affecting the Philippines until the report of this special envoy and the views of the Philippine Legislature are made available?

If our petition for postponement is denied, we respectfully request the committee to give us opportunity to express our views more fully at a public hearing.

SERGIO OSMENA,  
*Special Representative, Philippine Legislature.*  
ISATRO GABALDON,  
*Resident Commissioner, Philippine Islands.*  
PEDRO GUEVARA,  
*Resident Commissioner, Philippine Islands.*

The CHAIRMAN. Proceed.

Mr. GUEVARA. Mr. Chairman, I believe that the consideration of H. R. 10940 should be postponed until the next session of Congress. This petition is founded on two grounds, first, that the bill now under consideration by the committee introduces fundamental changes into our organic law and increases the power of the auditor, to whom is given more power than that enjoyed by the Comptroller General of the United States.

Mr. BACON. In what particular? In which section?

Mr. GUEVARA. This bill tries to take all decisions of the auditor out of the jurisdiction of the court of the Philippine Islands. I believe that as it amends the organic law of the Philippine Islands, introducing fundamental changes in the system of our government, at least the Philippine Legislature should be heard on the matter.

This bill also increases the salary of the auditor of the Philippine Islands, who is the accounting officer for no more than \$40,000,000 a year. This bill gives the auditor \$10,000 salary, more than the salary

received now by the auditor of the Postal Service of the United States, which is handling an appropriation of nearly \$300,000,000 a year. This bill not only increases the salary of the auditor of the Philippine Islands, but because, involving as it involves, an expenditure of the people's money of the Philippine Islands, we contend that the Philippine Legislature, representing the people of the Philippine Islands, should be heard on this question. It is not a matter of giving the auditor \$4,000 more per year. It is a question that in all cases where the people's money is appropriated for a salary their representatives should be heard by this committee.

I will also call the attention of the committee to the fact that the increase of the salary of the auditor will affect the whole system of our government in the Philippine Islands. If we increase the salary of the auditor of the Philippine Islands, there is no reason for not increasing the salary of other employees of the government. Otherwise, it will be an unjustifiable discrimination against the other public servants of the government of the Philippine Islands.

With regard to the increase of power of the auditor of the Philippine Islands, contemplated to be given by this bill now under consideration, we have now here in this room our technical adviser, who has been studying very carefully the changes that this bill introduces in our organic law. It has been suggested that this bill is very simple and only aims to place the auditor of the Philippine Islands in the same level as the Comptroller General of the United States. In spite of this, we wish to state that this bill gives more power to the auditor of the Philippine Islands, taking it from the jurisdiction of the court, than the Comptroller General of the United States, a system condemned by the American people as against American principles of government.

This bill will give the auditor of the Philippine Islands more power than any authority in that government, and will make the auditor of the Philippine Islands absolute king of the treasury of the Philippine Islands, giving him administrative power as well as judicial power. He can decide and settle any claim in favor of or against the government of the Philippine Islands. If he happens to decide a question in favor of the government, there will not be much question, but if he happens to decide a claim against the government of the Philippine Islands, to get it out of the public funds, in favor of the person whom he can choose to decide that claim for, that is different.

With regard to the details of this bill, I will ask the committee's permission that Doctor Reyes be heard on this question, pointing out to the committee the fundamental changes that this bill introduces into the organic act of the Philippine Islands.

#### STATEMENT OF DR. JOSE REYES

MR. REYES. Mr. Chairman and members of the committee, the most important changes that are sought to be made by the bill are these. First, in the powers of the auditor, the auditor of the Philippine Islands is given power not only to settle and adjust accounts and claims, but also to decide them. The word "decide" is inserted, and it is not found in the organic law of the Philippine Islands. And then, regarding the effect of the auditor's decisions, once made. From 1899, by military order of the President of the United States, down

to the present time, decisions of the auditor have been made final, and conclusive upon the executive departments of the Government only, or as the order of the President said, in 1899, upon the administrative branches of the government of the Philippine Islands, while this bill drops the words "upon executive departments" only, and makes the decisions of the auditor final and conclusive.

More than that, the purpose of this bill is not only to make the decision of the auditor final and conclusive upon the administrative or executive branches of the government, but also to make his decision binding upon the legislature as well as the judicial branch of the Philippine Islands. That seems to be the reason for changing the wording of the law, and we are all the more strengthened in that conclusion by the fact that within the last two years certain controverted cases regarding the authority of the auditor have arisen in the Philippines.

I do not wish to examine all the parts of the bill or give all our reasons for opposing its consideration at this time. With regard to our request for postponement, I will make the comment that supposing that this bill were to give the auditor of the Philippine Islands the same powers, in so many words, as the Comptroller General of the United States, the situation would not be the same, because if this bill becomes a law it becomes a part of the constitution of the Philippine Islands, while the Comptroller General's office in the United States, its organization and powers, are described by statutes of the Congress of the United States.

I think it is reasonable to assume that the people of the United States would hesitate to give the Comptroller General his present powers, especially if he were not responsible to the Congress of the United States and if the law giving him those powers were to be a part of the Constitution of the United States.

It seems too clear to doubt that the situation is not parallel. As far as we know, there has not been any objection regarding the accounting system in the Philippine Islands and its efficiency. As far as we know, it is not contended by technical men in the Comptroller General's office that the accounting system in the Philippine Islands is not up to date and efficient. Even if that were so, even if our accounting system needed improvement, the Auditor of the Philippine Islands, under his present powers, has ample authority to change the system and make it uniform and progressive.

That is our first reason for opposing the consideration of this bill at this session of this Congress. It makes a change in our Constitution and the time is so short for considering it.

Second, it affects by implication the duties of other administrative officials in the Philippine Government.

I wish to refer very briefly to one of those cases which is, by the way, now pending before the Supreme Court of the United States, interpreting the power of the auditor, the case of the *Inchausti Co. v. The auditor of the Philippine Islands*, for a refund of customs duties. The auditor of the Philippines is given power to settle accounts of the Philippine government in the Jones law. He is also given power by the act of the Philippine Legislature to settle claims against the Philippine government, any of its branches, and his decisions are final and conclusive upon the executive department. It seems to me that in those respects the powers of the auditor are as great as

those of the Comptroller General, and in some respects he has more power than the Comptroller General at present, because he has jurisdiction over corporations and their accounts in the Philippine Islands, and also he can on his own motion call the attention of the proper administrative official to any illegal, unnecessary, or extravagant expenditures.

Mr. UNDERHILL. What was the decision of the auditor in regard to his refunds?

Mr. REYES. I will go into that. The collector of customs of the Philippine Islands imposed 50 per cent ad valorem duty on the repairs of a steamer in the Philippine Islands owned by a commercial partnership in the Philippines. The repairs were made in Hongkong, outside of the Philippine Islands. He imposed this duty under the provisions of the Philippine tariff act of 1909, which was passed by the Congress of the United States, but in this same tariff act of 1909 it was provided that if in the judgment of the collector of customs of the Philippine Islands no facilities for such repairs were afforded in the Philippines, then the repairs would come in free of duty. The duty of 159,600 pesos, half that amount in dollars, was collected by the collector of customs and was paid under protest by this company, and a hearing was held by the collector of customs 10 days afterwards and he decided that the petitioner was entitled to a refund of the duty under that law of 1909.

Mr. UNDERHILL. The auditor decided that?

Mr. REYES. No, the collector decided. The law of 1909 states that when in the opinion of the collector of customs of the Philippine Islands adequate facilities for such repairs were not available in the Philippines—this had been interpreted by this supreme court of the Philippines previously. In pursuance of express authority in the Jones law, the Philippine Legislature amended the tariff act of 1909, in 1919, which amendment was approved by the President of the United States, and therefore became a part of our tariff law. The amendment in 1919 gave even wider discretion to the collector of customs of the Philippine Islands, providing that when in the judgment of the collector of customs of the Philippines no adequate facilities for repairs were afforded in the Philippines, and that these repairs could not be executed in a reasonably economical and prompt manner in the Philippines no duties were to be collected. Under authority of that law the collector of customs ordered refund of duties. He drew a warrant for that amount and the auditor of the Philippine Islands refused to countersign the warrant, requested the collector of customs to reconsider his decision and sent a copy of his request to the secretary of finance of the Philippine Government.

In regard to those cases of refund of customs duties, another law of the Philippine Legislature states that the secretary of finance may order a review of the decision of the collector of customs by the Court of First Instance of Manila, in the Philippine Islands. The auditor contended that he had discretionary authority in the matter in approving or refusing to approve those refunds of the money, and refused finally to do so, and the commercial partnership went to court and requested that a mandamus be issued against the auditor of the Philippine Islands.

The CHAIRMAN. Was that the first time that the auditor of the Philippine Islands had a mandamus served upon him?

Mr. REYES. No. There were other cases where the auditor's powers had been brought before the court, and notably in that of *Lamb v. Phipps*.

The CHAIRMAN. This was the first decision against the auditor, was it not?

Mr. REYES. No. Of course, in connection with that there have been very few cases, but I believe this is one of the very few cases that the auditor has refused to refund the money in those provisions of law where the matter of deciding has been given to some other administrative official of the Philippine government.

The CHAIRMAN. Up to that time the decision of the auditor had never been questioned, had it?

Mr. REYES. The auditor had never seriously questioned the power of the collector of customs.

The CHAIRMAN. That is our contention, that the Jones Act of 1916 intended that he should have the power which we are now trying to confer upon him by this bill.

Mr. REYES. Of course, the matter of legislative intention is hard to find out, but it seems to me that under accepted principles, whenever there is a dispute about that the courts decide about the interpretation of the law.

Mr. UNDERHILL. Did the auditor take this step on his own initiative or at the request of the minister of finance?

Mr. REYES. He does not have to get any request from the secretary of finance, because all the money paid out by the Philippine government has to be countersigned, and when this warrant came to his office he declined to countersign it.

Mr. UNDERHILL. But your heads of departments were consulted in reference to it?

Mr. REYES. The auditor of the Philippine government brought this matter to the attention of the secretary of finance for a final review by the court. The secretary of finance refused to request a review by the court of first instance regarding this administrative decision of the collector of customs of the Philippine Islands.

In connection with this case, one other law that is pertinent in the matter is the one providing a permanent although indefinite appropriation which was passed by the Philippine Commission and amended afterwards. In other words, there was money available to an indefinite amount, appropriated by the legislative authority in the Philippine Islands. Of course, I do not intend to go into this case thoroughly and try it here.

But that seems to be the background of this desire to clarify the powers of the auditor. Now, comparing his powers with the Comptroller General of the United States. Insofar as the intention of making his decision binding upon the judicial and legislative branches of the Government may be realized by this bill, it seems to us that certainly is power greater than the power of the Comptroller General of the United States.

The CHAIRMAN. You understand, of course, that we now have in the United States a Court of Claims, and that prior to 1855 the accounting officers and Congress had entire jurisdiction. If the bill provided for a court of claims as we now have in the United States you would have the same procedure that we have in the United States.

Mr. REYES. There would be three points that would be relevant in that matter, Mr. Chairman. In the first place, it would seem to



us that that is the thing needed, a court of claims; the remedy would be for the Congress of the United States to authorize the Legislature of the Philippine Islands to establish a court of claims with power to review decisions of the auditor, especially on the points of law. In the second place, before the Court of Claims was established, I understand that the practice in the United States was for people who were aggrieved by the decisions of the Comptroller to go to the Legislature, the Congress of the United States, for a remedy, and Congress could grant or refuse to grant any in its own discretion.

But under this bill the decisions of the Auditor of the Philippine Islands are final and conclusive, and the legislature of the Philippine Islands would certainly not be very free to appropriate or refuse to appropriate money that would be involved in the decision of the Auditor of the Philippine Islands, an official appointed without the intervention of the Senate of the United States or the Legislature of the Philippine Islands.

The third point that we would say in that matter is this, that undoubtedly the Congress of the United States, in giving the Comptroller General so much power in 1921, under the Budget and Accounting Law of 1921, had also in mind the safeguards against that power, namely his appointment by and with the advice and consent of the Senate of the United States, and his removal by the Congress of the United States on joint resolution when in the judgment of Congress he has been inefficient or negligent in the discharge of his duties. Without that safeguard the case is not parallel and can not be parallel.

As I was saying before, in so far as the intention of this law may be realized, that of making the decisions of the Auditor of the Philippine Islands binding and conclusive not only upon the executive departments, but upon the legislative and judicial departments of the Philippine Government, by that much his power is greater than the Comptroller General of the United States, all of which, of course, it seems to us, are very strong grounds for postponement of this bill until the Philippine legislature or other representatives of the Philippine Government can consider this matter more thoroughly.

Those things I have enumerated, those points, first, that this bill is going to be written into the constitution of the Philippine Islands, which will be superior to any local law enacted in the Philippine Islands, which if we are to judge by the action of the Congress of the United States, may last 14 to 16 years, second, that it affects by implication necessarily the duties of other administrative officials in the Philippine Government, who, by the way, have not been heard in this matter at all and certainly must have their side of the case. third, that the auditor's office has been functioning under existing law in the Philippines efficiently, and without any cause for complaint from the time of the establishment of the American Government in 1899, from the time of the accounting act passed by the Philippine Government in 1907, up to very recently, and even very recently there are only two or three cases that may be cited, going to show that his office has been functioning normally and effectively, fourth, that in making the change in the finality of the decision of the Auditor, making it conclusive, and by comparison with his present powers, by implication, making it binding upon the legislature and the judicial department, it introduces a very grave departure in our present

practice, fifth, that certainly there is reasonable ground for the contention that his powers under this law will be greater than those of the Comptroller General of the United States, without the safeguards that exist in the United States at present—these are the bases for our request to postpone.

The CHAIRMAN. Are you aware that the present statute for Porto Rico makes absolute and binding the decision of the auditor under the organic act?

Mr. REYES. I just learned a few moments ago from the Commissioner of Porto Rico.

The CHAIRMAN. We have a precedent in that the organic law for Porto Rico does contain that language.

Mr. REYES. On the other hand, Mr. Chairman, I wish to call the attention of the committee to the precedent in the United States that the powers of the Comptroller General of the United States have not been made binding and conclusive except upon the executive branch of the Government, by the Budget and Accounting Act of 1921, which says decisions shall be binding upon the executive branch of the Government. But certainly it has not been the practice in the United States that his decision shall be binding upon the judicial and legislative branches of the Government, and that is apparently the intention of this bill.

Mr. RAGON. Speaking about giving him jurisdiction of claims, how is that handled there now—through the legislature?

Mr. REYES. There are special claims arising out of customs duties. In those special cases the collector of customs is given authority to decide. In internal-revenue cases the collector of internal revenue is given authority to decide, although how final that authority is in his case has to be interpreted by the courts. But in most other cases the authority over claims is in the auditor's office. In other words, we may say under the law as it stands, the auditor has jurisdiction over claims of general matters, but not in special cases.

Mr. RAGON. It has to go to the auditor and these other officers mentioned. They have a right also to have it reviewed by the courts.

Mr. REYES. Who?

Mr. RAGON. Any one aggrieved.

Mr. REYES. Yes. If this were passed they would not have that right, but in this particular case I was referring to, the decision was against the government and in favor of the party, but the government would have had one other recourse; the secretary of finance could have asked for review proceedings by the court.

Mr. RAGON. If the individual was injured by this auditor's decision, he would have no appeal or court review, but if the government were injured in any way, it would have a review. Is that your construction of it, by the courts?

Mr. REYES. In the Inchausti case, being a case for the refunding of custom duties, the aggrieved party could have taken the matter to the court for determination.

Mr. RAGON. Do you think the court has a right to take over jurisdiction if we pass this bill?

Mr. REYES. I do not think so.

Mr. RAGON. Explain to me how any court could interfere with the auditor under the terms of this bill if we pass it.

Mr. REYES. It may be so that under the due process of law clause a person whose property rights are injured could go before the court, but if this bill is passed, they would have very little chance.

Mr. RAGON. It is your constitution in the Philippine Islands we are fixing to amend here?

Mr. REYES. Yes.

Mr. RAGON. I want to know where any court in the Philippine Islands would have any authority that they did not find in this bill?

Mr. REYES. Of course, this is not the whole constitution, and they may find authority in other parts of the constitution.

Mr. RAGON. That is the organic law?

Mr. REYES. Yes; but as I say, it seems to be the intention in this bill not to let any court have jurisdiction.

Mr. UNDERHILL. How do we get around it in this country?

Mr. RAGON. We have the Court of Claims to adjudicate it.

Mr. GUEVARA. Not only the Court of Claims can review decisions of the Comptroller General of the United States, but also the district court.

#### STATEMENT OF O. R. MCGUIRE, LAW DIVISION, COMPTROLLER GENERAL'S OFFICE

The CHAIRMAN. We have Mr. McGuire, of the Comptroller General's Office here, and we would like to hear as to how these affairs are handled.

Mr. MCGUIRE. They have an agency somewhat similar to the auditor in the two cases referred to. Mr. Chairman and gentlemen of the committee, in fairness to the Comptroller General, he is neither an opponent or proponent of this bill, but I have come here to be of whatever assistance I can to the committee.

Mr. RAGON. Who is the proponent of this bill? Did we hear from them first? Is the Secretary of War going to be heard?

The CHAIRMAN. Major Hedrick of the War Department was to come, but he is ill this morning and can not be here.

Mr. MCGUIRE. Our accounting system started in 1788 by an ordinance of the Continental Congress, and if you read that ordinance you will find that the comptroller and auditor had very extensive power in auditing and the settlement of claims. In 1789, September 2, an act was passed establishing the Treasury Department. That law brought over under the Constitution the auditor and comptroller which existed under the Continental Congress, with practically the same powers that he had under that ordinance. The law was changed on March 3, 1817, but the powers and duties of the auditor and comptroller remained the same. There was introduced at that time a special section, which forms section 305 of the Budget and accounting act. That provides that all claims in which the United States is concerned as debtor or creditor shall be settled and adjusted by the accounting office.

That section originated in the act of March 3, 1817, and there has been no question of the settlement or adjustment of accounts including the power of deciding, because you can hardly conceive the settlement of accounts without deciding the accounts. But the Supreme Court of the Philippine Islands, in the Inchausti case seems to have the idea that settling and adjusting accounts did not carry with it

the authority to decide them. For that reason, as I understand it, there was introduced in this bill the power to decide. From 1789 to 1855, there was no jurisdiction in any court of the United States to entertain a suit against the Government. Congress had not given its consent that the United States be sued. The only way that claims could be settled was under the provisions of the act of March 3, 1817, by the Claims Committee of Congress.

The act of 1855 established a Court of Claims and authorized it to make findings of fact and conclusions of law which would be reported to Congress, and the Supreme Court decided in the *Gadon* case, 2 Wallace, that it could not review such findings of fact and conclusions of law because they did not constitute judgments. The law was amended in 1863 to authorize the Court of Claims to render judgments against the United States, but Congress has required in all these cases with one or two exceptions, that no judgment may be paid until it has been specifically reported to Congress for an appropriation. In other words, if Congress authorizes as it has authorized, the building of Memorial Bridge, if a dispute should arise there which the Comptroller General would not settle, and they brought suit in the Court of Claims to obtain adjustment, that adjustment would have to come back up here to Congress for an appropriation. I understand that there are a number of judgments rendered several years ago which are now pending before Congress and have never been appropriated for.

Of course, during this period from 1789 to 1855, we had the same situation that now exists in the Philippine Islands, and that is, the aggrieved claimant would attempt by extraordinary judicial process to sue the Government by proceedings against some officer of the Government just as they did in the Philippine Islands in proceeding against the auditor. But the Supreme Court of the United States held in every instance that such proceedings would not lie, that the jurisdiction to determine these matters had been committed by Congress to certain officials, and that the courts could not interfere with them. In the Comptroller General's letter to the committee, he refers to a certain number of cases, including *United States v. Guthrie*, where the Supreme Court said that it would create a great confusion if such extraordinary judicial processes lie against officers to obtain money without appropriations, etc. The language is quoted in his letter if you are interested in it.

After the establishment of the Court of Claims they attempted to proceed by extraordinary judicial process against the comptroller in order to secure payment of a claim, and in *United States v. Lynden* (137 U. S.) the court decided that such mandamus would not lie; in other words, the duties of the comptroller involve judgment and discretion, and they can not review them in such an action. I believe the Supreme Court pointed out in *U. S. v. Hiedooch* (?) whether they decided right or wrong, the fact that they had jurisdiction to decide removed it from their jurisdiction to review by such judicial process.

Something has been said here about this law taking away from the courts of the Philippine Islands the right to review the auditor. It will be readily seen that in view of our history prior to 1855 and now that there is no such jurisdiction for the courts of the Philip-

pine Islands to review by extraordinary judicial process decisions of the auditor or other officials on law and appropriation matters.

There might be an exception in a case involving a mere ministerial act, but it certainly can not be held that the settlement of a claim involving a dispute against the law and the facts is a mere ministerial act.

Referring now to the Inchausti case, in which the Supreme Court issued a mandate against Quesedos and others, *Manuel v. Quesedos* and others, the bill provides that the organic act of 1916 provides that no money shall be drawn from the treasury of the Philippine Islands save in consequence of an appropriation made by law, being comparable in that respect to article 1, section 9 of our Constitution. The administrative code of the Philippine Islands requires warrants to be countersigned by the auditor for the payment of any money from the Philippine treasury. When this claim came up to the auditor—the organic act of 1916 provides that he shall settle and adjust all claims, and the law was changed as to the administrative branches, and it being a later law, would certainly include the collector of customs—he refused to countersign the warrant on the ground that the taxes were not properly refunded.

Such a situation would not arise in this country because the decisions are so well settled that you can not review an act of an official particularly of a Comptroller General who has performed some judicial duties by such right.

We have had some recent cases. In the court of appeals we had *Carroll Electric Co. v. McCarl*, and also in the *Margulis* case, the court of appeals recently rules it was a contract matter requiring the comptroller to settle and pay the claim.

I believe it is safe to say that this law does confer on the auditor for the Philippine Islands and the auditor in Porto Rico, for that matter, no greater power than they are supposed to have under the act of 1916. The phrase, "final and conclusive upon the executive departments"—this bill drops the words, "upon the executive departments."

I might say that provision in our law originated in 1868, the act of March 30, providing for it to be final and conclusive on the executive department, subject to review by the courts, because just a few years before that we established the Court of Claims, and this law was carried into the Revised Statutes, section 191, and that language was dropped, subject to review of the courts, and final and conclusive upon the executive departments, and when it was brought forward in section 304 of the Budget and Accounting Act, to be final and conclusive on the executive departments, subject to review by the courts, was dropped.

You can readily see why there would be no need for this legislation in this case, because, as I have stated, the rule has been established that you can not review a discretionary act by extraordinary judicial process. That is, you can not make a petition for mandamus or a bill for injunction operate as a writ of error to review those decisions. Not being able to review it that way, if they go into court and bring suit against the United States under the jurisdiction conferred, the comptroller is not involved in the litigation at all because the suit is against the United States, and the Department of Justice then takes charge of the defense of the case; and when they render judg-

ment against the Government they must come back here for an appropriation, so there is no possible thought of taking a short cut by proceeding by extraordinary judicial process against the comptroller to get money out of the Federal Treasury, unless Congress consents to it, except in one class of cases, and that is in cases involving salaries. There have been few decisions of lower courts holding that you can obtain the salary by mandamus.

Mr. RAGON. Under the present law the decision of the Comptroller General is final and conclusive in this country only against the executive departments.

Mr. McGUIRE. Exactly.

Mr. RAGON. Is it final and conclusive against the executive department on a question of law?

Mr. McGUIRE. The only thing that the executive department can do is to come back to Congress and get the law clarified.

Mr. RAGON. As I understand this bill, this would not only make it final and conclusive upon the executive, but also the legislative and judicial branches. Would there be any way in your opinion, say he was wrong from a legal standpoint alone, for the courts to review it?

Mr. McGUIRE. No, sir; they do not have that right to review in the United States.

Mr. RAGON. You have a check against two branches, the legislative and judicial, in the United States, but over here in the Philippines, and in Porto Rico, you would not have any check, as I understand it, in either the legislative or the other?

Mr. McGUIRE. Yes; the legislative might.

Mr. RAGON. It could not change this organic act.

Mr. McGUIRE. Suppose under the organic act the Legislature of the Philippines authorizes a certain expenditure, and the auditor holds that this claim did not come within the law. Then, of course, that would be final and conclusive, but they could go back to the Legislature of the Philippine Islands and the Philippine Islands could amend the law providing the amendment did not conflict with the organic law.

Mr. RAGON. Would it not conflict?

Mr. McGUIRE. I think not because Congress can change the law in accordance with the constitution.

Mr. RAGON. When we give them the organic law, that is their situation; their courts can not go beyond it.

Mr. McGUIRE. No.

Mr. RAGON. Our Congress can do as it pleases about it, but as I see this bill, it seems to me it is a dangerous proposition to put into the hands of one man over there. I am giving you my reactions to what has been said here, the power to settle a claim absolutely, and stop your executive, judicial, and legislative branch of the government from having a word to say, notwithstanding the fact that it might deeply affect the government or some individual citizen.

Mr. McGUIRE. We did not think it was, prior to 1855 in this country, for three quarters of a century.

Mr. RAGON. As I understand you, for three quarters of a century this same condition existed in this country?

Mr. McGUIRE. Exactly.

Mr. RAGON. Congress nor the courts had no authority to review the action of an auditor?

Mr. McGUIRE. Neither the executive nor the judicial could review the action of the comptroller.

Mr. RAGON. What about the judicial?

Mr. McGUIRE. The judicial department said it had no right to review in a matter involving discretion.

Mr. RAGON. Suppose it is a question of law?

Mr. McGUIRE. If it involves discretion in the executive that would leave it out. But they can come back as they did here, to the Philippine Legislature for a change in the law.

Mr. RAGON. You say we found that to be a bad precedent and have changed it since 1855?

Mr. McGUIRE. We have. We established the Court of Claims. If you want to establish a court of claims for the Philippine Islands, that is another matter.

Mr. RAGON. I think that is what they ought to do in place of giving them this bill.

Mr. McGUIRE. Even if you establish a court of claims there, you still have to have independence of the auditor, as the Supreme Court said.

Mr. RAGON. You are seeking, under the provisions of this bill, to put the Philippine Islands in exactly the status we occupied prior to 1855?

Mr. McGUIRE. No; they are seeking to put the auditor there in the same status as the Comptroller General here in the settlement of accounts.

Mr. RAGON. We have a judicial review and we have also a legislative check here.

Mr. McGUIRE. They have a legislative check there.

Mr. RAGON. They have now, but if you give them this where would they be?

Mr. McGUIRE. They might change the law.

Mr. RAGON. I do not see how they can change the organic law by act of the legislature.

Mr. McGUIRE. They can not, but, say, they make an appropriation for payment of a certain claim, as Congress does here for certain purposes. Suppose the auditor thinks that the claim does not come within the law as enacted by the Philippine Legislature. Then the Philippine Legislature can change the law to include the claim as the Congress here can if the Comptroller General holds it is not within the law.

Mr. RAGON. That would be true in some bills where the Philippine Legislature does not conform strictly to the law, but suppose the auditor says they did not have any right to alter it. You are giving a man authority under this bill to pass upon the question and depriving the Philippine supreme court. That has been commented upon by the courts in a number of decisions.

Mr. McGUIRE. I am only stating that in this country the courts do not review discretionary acts. The court of the Philippine Islands said, in *U. S. v. Guthrie*, in a situation where the question came up on mandamus to require payment of the salary of a judge, that the only legitimate inquiry in the case for their determination was whether under the organization of the Federal Government, by any known principle of law, there can be asserted the power of the Government of the United States in this claim.

In the city of Manila case, and in most of these mandamus cases, the courts do not pass upon the merits of the claim. In the Manila case they did not decide whether the city of Manila owed the metropolitan water district for water. They cite the decision and they say they can go into court and sue, but the auditor can not transfer the fund from one appropriation to another, as the Comptroller General has held here in the settlement of questions between the departments here.

Mr. WILLIAMS. If a claimant has a claim under the present law there, what recourse has he?

Mr. MCGUIRE. His recourse is to file his claim with the auditor. If the auditor disallows it, section 25 of the organic act provides that he shall appeal to the governor general. If the governor general disagrees with the auditor the governor general is required to send his decision to Washington for review by the Secretary of War.

Mr. WILLIAMS. That is the present law.

Mr. MCGUIRE. That is the administrative procedure, or he can stop with the auditor and go to the Philippine Legislature for a change in the law.

Mr. WILLIAMS. That is the present law.

Mr. MCGUIRE. Yes.

Mr. WILLIAMS. Under this bill what would be the law?

Mr. MCGUIRE. The same thing.

Mr. WILLIAMS. If this bill does not change the law, what is the reason for it?

Mr. MCGUIRE. I might make this point, that under the present law the courts have attempted by extraordinary judicial process to decide those matters if the auditor decides it in a particular way, and the purpose of this bill as I understand it, is to prevent that.

Mr. WILLIAMS. You say under the present law they have attempted to pass on the question.

Mr. MCGUIRE. They have not attempted, but the courts have assumed jurisdiction to do so, and those two cases are now pending.

Mr. WILLIAMS. What recourse has the claimant if he can not go to the court?

Mr. MCGUIRE. He can not go to the court in the United States in that way.

Mr. WILLIAMS. That is not a parallel case because their laws have got to conform to the organic act.

Mr. MCGUIRE. Exactly.

Mr. WILLIAMS. They can not come to Congress as we can.

Mr. MCGUIRE. They can go to their legislature.

Mr. WILLIAMS. But if that interferes with the organic act, and if it is unconstitutional that is the end of it.

Mr. UNDERHILL. The Comptroller General's office has a suggestion right along this argument, which I might read.

Mr. BACON. I was going to present that in the executive session.

(The amount referred to is as follows:)

SEC. 3. There is hereby conferred upon the Court of First Instance in Manila, with right of appeal as in other cases, the same jurisdiction to hear and determine claims against the government for the Philippine Islands as that now or which may hereafter be conferred on the Court of Claims and the Court of Customs Appeals to hear and determine claims against the United States: *Provided*, That no suit shall be brought against the government for the Philippine Islands on any claim which shall not have been presented to the insular auditor



at least three months prior to the date of institution of such suit: *Provided further*, That copies of the petitions shall be served on the insular auditor, who shall appear and defend the government for the Philippine Islands: *And provided further*, That no judgment against the Philippine government shall be paid until it shall have been reported by the minister of finance to the Philippine Legislature and a specific appropriation to pay same shall have been made.

Mr. WILLIAMS. If the Government or an individual or a corporation or a partnership should have a claim under this bill, if it becomes law, is it entirely up to the comptroller to approve that claim and decide whether the claim is just or unjust, and there is no appeal from his decision?

Mr. McGUIRE. No, sir; that is not exactly a correct statement. Under this bill, if it becomes law, any corporation, or any person having a claim against the Philippine Islands, could appeal to the auditor, and if the auditor did not allow it, he could then appeal to the Secretary of War. If the Secretary of War agreed with the auditor, his next proceeding would be to the Legislature of the Philippine Islands to secure an appropriation. That is the same situation as prevailed here from 1789 to 1855.

Mr. WILLIAMS. That is the law at present in the Philippines?

Mr. McGUIRE. Yes.

The CHAIRMAN. And it would be the same if this bill, H. R. 10940, was passed?

Mr. McGUIRE. Yes.

Mr. WILLIAMS. If it would be the same, why introduce the bill, why the necessity of the legislation?

Mr. McGUIRE. It was this, that the courts in this country do not attempt to control the auditors and comptrollers by extraordinary judicial process, whereas in the Philippine Islands, not having a court of claims, they do attempt to do it.

Mr. WILLIAMS. What other recourse have they?

Mr. McGUIRE. We did not have any here for three-quarters of a century. The Supreme Court decided it could not be done.

Mr. SABATH. We changed that 70 years ago.

Mr. McGUIRE. Yes.

Mr. SABATH. Why? Because they wanted to give them a right to bring suit against the Government. If Congress wants to authorize and establish that for the Philippine Islands they can give them a court of claims.

Mr. DAVILA. What is the difference between the law of Porto Rico and the law of the Philippine Islands regarding the matter of the decision of the auditor being final and conclusive upon the executive departments of the government? Have you knowledge of such a provision for Porto Rico?

Mr. McGUIRE. That it shall be final in Porto Rico?

Mr. DAVILA. I want the committee to know that it is unnecessary to change the law in Porto Rico.

Mr. McGUIRE. We have the precedent there.

The CHAIRMAN. If this amendment was adopted, then they would have the same course of procedure in the Philippines as we have here by establishing a court of claims.

Mr. McGUIRE. By this bill as it now stands, to make it clear that the auditor is not to be proceeded against by extraordinary judicial process, which is the situation here. If you establish that, they will

have the same court of claims having the same jurisdiction as our Court of Claims and our Court of Customs Appeals, because here a claim for refund of customs goes to our Court of Customs Appeals rather than the Court of Claims.

Mr. BACON. With this amendment to the bill, you get a system in the Philippine Islands identical with the system here?

Mr. McGUIRE. Exactly.

Mr. SABATH. What reason exists for this requested legislation?

Mr. McGUIRE. Those decisions of the Supreme Court of the Philippine Islands within the last year that have attempted to review the auditor by extraordinary judicial process, and from the beginning of the American Government there up to this case, the Supreme Court had held that it could not review the auditor in such cases.

Mr. SABATH. And because the Supreme Court has assumed jurisdiction in these matters, you think that we should pass this legislation?

Mr. McGUIRE. I am not advocating the passage or nonpassage. That is up to the committee. I am only telling you the situation.

Mr. WILLIAMS. Since that law was passed in 1907, how many times have they had claims come into the courts to be reviewed?

Mr. McGUIRE. They have had several cases.

Mr. WILLIAMS. Do you know how many they have had since 1916, when the enabling act was passed?

Mr. McGUIRE. We have had these two which are now here in the Supreme Court, and I understand there are one or two other petitions pending in the Philippine Islands against the auditor. The other cases have come up prior to this time before the change in the personnel of the court that had denied that right following the decision in the case of *Land v. Phipps*, and they went into this very thoroughly.

Mr. WILLIAMS. When the supreme court of the government of the Philippine Islands rules on a case, is there no appeal whatever to our Supreme Court?

Mr. McGUIRE. It comes by writ of error to our court.

Mr. WILLIAMS. Then our Supreme Court will remedy the evil when it reaches it.

Mr. McGUIRE. It can not remedy the whole situation because the *Inchausti* case covers the point on a very narrow question of law, but there is the Manila case.

Mr. WILLIAMS. Is that the repair bill involving about \$70,000?

Mr. McGUIRE. Yes. Of course, there is nothing there that the Supreme Court will take on a writ of error. We presented it to them some three or four weeks ago, but the court has not yet passed on it.

The CHAIRMAN. I want to bring out the point that with the adoption of the amendment Mr. Underhill and Mr. Bacon have referred to, and which will be inserted in this record, and with the passage of this bill, the Philippines would be in the same situation, so far as claims are concerned, as we are in the United States.

Mr. McGUIRE. Yes.

The CHAIRMAN. The law would be the same and also the course of procedure.

Mr. WILLIAMS. They have not a court of claims.

Mr. BACON. This amendment gives them a court of claims.

The CHAIRMAN. It permits the legislature to create a court of claims.

Mr. McGUIRE. No; it creates a court of claims.

Mr. WILLIAMS. It does not create a court, but gives the court power.

Mr. McGUIRE. There was some thought that there would not be enough business to have a separate court, so they conferred it on the court of first instance, and that court would have jurisdiction that our courts now possess, with a right of appeal as in other cases.

Mr. WILLIAMS. The auditor would not be subject to mandamus proceedings.

Mr. McGUIRE. The claimants then would have the same course as they do here with the Comptroller General, and if they were still aggrieved could go into court and sue the Philippine Islands and the auditor would have opportunity to defend, and if they got a judgment they would report that to the Philippine Legislature, which could appropriate or could refuse to appropriate, as Congress does here, in paying judgments in this country.

Mr. WILLIAMS. If they refused to pay the appropriation, they could not pay it under the present law.

Mr. McGUIRE. The comptroller could not pay a judgment here in that case.

Mr. WILLIAMS. Under the present law it could not be paid until the legislature of the Philippine Islands makes an appropriation.

Mr. McGUIRE. The Legislature of the Philippine Islands makes a general appropriation for the conduct of the various departments the same as here, but the judgments of that court would not be paid under the general appropriation as here except in a limited number of instances.

Mr. WILLIAMS. A specific appropriation?

Mr. McGUIRE. Exactly as here.

The CHAIRMAN. Would not this simplify the matter very much, if the bill was passed, to have this amendment put in giving that power to the court?

Mr. McGUIRE. All I have said this morning is my own personal statement, but personally I can see no objection to conferring on the courts of first instance in the Philippine Islands this power that is included in the amendment. It will give them the same court of claims that we have here. The only difference in the procedure that would be established under this amendment, as I drafted it, would be that the auditor would have opportunity to defend the cases rather than the Attorney General.

(Thereupon the committee discussed the bill in executive session and subsequently adjourned.)

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Monday, May 10, 1926.*

The committee met at 10.30 o'clock a. m., Hon. Edgar R. Kiess (chairman) presiding.

The CHAIRMAN. I want to call your attention to H. R. 11617, which is the bill upon which we will hold our hearings this morning. This is known as the auditor bill, applying to the Philippine Islands, and some of the representatives of the Philippine Islands wish to be heard.

Mr. THURSTON. Before we begin, did you find out about the duplication of the salary of the auditor? We talked about that the other day.

The CHAIRMAN. Yes; I can give you that information some time during the hearing.

Mr. RAGON. Have you that information? If so, we ought to get it before these speakers begin.

The CHAIRMAN. I think that Mr. Guevara and I together can give it; that is, with relation to the salary of the auditor at the present time. It is understood that the auditor over there has been drawing \$6,000 as salary, and then he has been paid by other interests—

Mr. GUEVARA (interposing). \$4,000.

The CHAIRMAN. What interests have paid the \$4,000?

Mr. GUEVARA. The Philippine National Bank, which is owned by the government of the Philippine Islands. The majority of the stock is owned by the government.

The CHAIRMAN. So that his total salary to-day is \$10,000?

Mr. GUEVARA. Yes.

The CHAIRMAN. I understand it has been stopped.

Mr. GUEVARA. No, it has not been stopped, as I understand.

The CHAIRMAN. You mean that at the present time it has not been stopped, but will it not?

Mr. GUEVARA. I do not know how the Philippine Legislature will stop it because it is entirely within the power of the board of directors of the Philippine National Bank.

The CHAIRMAN. Then I am misinformed, but I was under the impression that the reason that this increase in salary was provided was that the auditor would not receive in the future what he has been getting now from the two sources. There is no intention on my part—and I introduced the bill—to have him receive \$14,000; but, in view of the fact that he had been receiving \$10,000, I thought it would be better for him to receive it as a straight salary, open and above board, rather than to receive \$6,000 from the government and then be paid \$4,000 from other sources.

But you think that if this bill were passed without a provision forbidding him to have other pay, he would receive \$14,000?

Mr. GUEVARA. There is no doubt about it.

The CHAIRMAN. That, of course, can be easily remedied by a proper amendment.

Does that clear it up?

Mr. RAGON. Yes; but I do not think you have gone far enough into it. I would like to get some more light on it.

The CHAIRMAN. We can no doubt get additional information on that for you.

Mr. GUEVARA. If there is any gentleman present here who wishes to speak in favor of the bill—

The CHAIRMAN (interposing). There is no one here to speak for the bill.

I have asked Major Hedrick of the Judge Advocate General's Department in the War Department to come here this morning to answer any questions that any members of the committee might wish to ask him regarding this bill. We had Mr. Maguire, as you will remember, of the Comptroller General's office before our committee, and I think Major Hedrick assisted Mr. Maguire in the drafting of

this bill. The question had been asked why there was no one here from the War Department, and I explained to the committee that Major Hedrick was ill at the time of our last meeting.

Mr. RAGON. That is not the person I wanted from the War Department. I wanted somebody in authority, like Secretary Davis or General McIntyre, not some fellow who is a lawyer and who drafted the bill.

The CHAIRMAN. We have a letter on file from the Secretary of War indorsing the bill.

Mr. RAGON. But we have the right to have those men appear and give us their counsel and advice, and this is the first time in the history of this committee when we have not had them here.

The CHAIRMAN. You understand that a legal question like this is always referred to The Judge Advocate General's department rather than to General McIntyre. General McIntyre would come at any time.

Mr. RAGON. He is the one I want, or Secretary Davis, to tell us something of the economic effect of this bill upon the islands and what dissatisfaction they find there, not what some lawyer thinks about it. I do not need a lawyer to tell me of the legal significance of this bill or what it will do. What I need is a man who is in charge to tell me something of the economic relationships.

The CHAIRMAN. It does not change them.

Mr. RAGON. I think it does.

The CHAIRMAN. That is a difference of opinion.

#### **STATEMENT OF MAJ. L. H. HEDRICK, JUDGE ADVOCATE GENERAL'S DEPARTMENT, UNITED STATES ARMY**

The CHAIRMAN. Major Hedrick in your judgment does the proposed change in section 24 alter the powers of the auditor as provided in the act of 1916?

Major HEDRICK. Before I answer that I would like to say that you are in error about my being one of the drafters of the bill.

The CHAIRMAN. I believe Mr. Maguire drafted it.

Major HEDRICK. My connection with this matter is that I am now handling as the attorney in charge the particular cases that are now in the Supreme Court involving the powers of the insular officers the Inchausti case and the case between the city of Manila and the metropolitan water district.

In connection with those cases I have gone into the matter very fully and I have been asked to go over this bill. I know that the object of this bill is purely that of clarification and I think that anyone who will read the decisions of the supreme court of the Philippine Islands in each of these two cases to which I have referred will reach the conclusion that some clarification is necessary.

As to the breadth of the powers of the auditor I do not think this bill as now drawn increases his powers at all. In the Inchausti case the powers of the auditor with reference to the refund of customs duties are involved. The contention there on the other side is that the collector of customs is the final authority and his decisions are final in those matters with the exception of appeal to the court of first instance.

On our side, the contention is that the powers of the auditor as referred to in the organic act reaches those decisions as well as any other decisions. We can not see what Congress meant when it said "He shall perform a like duty to all branches of the government" if it did not mean to include all branches of the government.

Now, I might say in passing that the Supreme Court has just granted the petition for the writ of certiorari in that case. While that is not a decision, I appreciate, as was remarked the other day, that it is somewhat of an indication.

The CHAIRMAN. When will that case be tried, probably?

Major HEDRICK. Unless it is advanced for argument, the clerk informs me that it will probably be reached in about a year for argument.

The other case has just been filed by me last week. It is interesting, and shows somewhat how involved this whole situation now is. The decision of the Supreme Court of the Philippine Islands has practically set aside the act of the Philippine Legislature called the accounting law. It is under that law that the auditor is specifically authorized to adjust and enforce settlements between different branches of the government, just as the Comptroller General does in this country. Generally, I think he has that authority under the organic act, but the Supreme Court has in effect denied him that power by its decision in that case, and that case was merely a matter of the Metropolitan Water District as a governmental entity. It is a so-called public corporation. I say "so-called" because it is one of these public corporations merely called such in the act which created it. It has no stock, and is merely an entity created by the legislature to carry on the water service in a certain district including the city of Manila. By that act, all of the water systems of the city of Manila were turned over to the water district. The water service was furnished to the city by the district, for a part of which the city paid and for the major portion of which it refused to pay, claiming that it was entitled to free water.

The act of the legislature, however, provided that the district should charge and collect for all water service regardless of whether it was furnished to a person, corporation, governmental body, municipality or religious or charitable institution. The district presented the matter to the auditor, and, I might say here, in the auditing law, the accounting law, the legislature has specifically provided that the city of Manila and the metropolitan water district shall be regarded as Provinces. In fact, the city of Manila and the metropolitan water district make up the seventh auditing district of the Philippine Islands.

In another section of the act is another provision that the auditor is empowered to authorize and enforce settlement of accounts subsisting between bureaus, offices, Provinces, cities, municipalities, and all branches of the government, so the district presented this matter to the auditor, who went into the matter carefully and decided that the city owed the money to the district, and under the act of the legislature it is hard to see how he could decide any other way, and directed the collector of internal revenue to issue an appropriation warrant against the city's apportionment of the internal-revenue collections and in favor of the metropolitan water district and thereby enforced the settlement of this account subsisting between the two.

The city brought action enjoining the treasurer from paying any such warrant and asking for a mandamus to compel the collector of internal revenue to issue all warrants for this apportionment to the city and not to the district, and to compel the auditor to countersign all warrants drawn by the collector, and the Supreme Court granted that relief.

Mr. WILLIAMS. By what vote—do you remember?

Major HEDRICK. Justice Villa Real took no part in the decision he having acted as attorney general in the start of the case. Justice Johnson dissented with Justice Ostrand in the preliminary skirmishes. Justice Johnson went away later on and took no part. Justice Ostrand dissented and Justice Street concurred in the results but wrote a separate opinion.

So the vote was 6 in favor, 1 dissenting, and 2 taking no part in the final decision.

Mr. WILLIAMS. And this water company is owned by the Government?

Major HEDRICK. Yes sir.

Mr. THURSTON. By the municipality of Manila?

Major HEDRICK. No; by the government. It comprises not only the city of Manila but quite a little territory outside of that.

Mr. WILLIAMS. If I understand you now the money that the city owed for furnishing water when it was paid would be actually paid to the government because the government owns this Metropolitan Water Co.?

Major HEDRICK. Practically that is the result and of course there is this somewhat peculiar situation; that is the situation differs from our ordinary municipality in that—

Mr. WILLIAMS (interposing). My question is this: Suppose that this bill was passed and became a law how would that affect a case like that? In other words, if this was the law if the auditor had found under this law as he did, what would have been the recourse of the city? Could not it have done the same as it has already done?

Major HEDRICK. I do not think so. There is an appeal provided now to the Governor General and to the Secretary of War. That is the appeal that Congress has given, and under all the decisions of our Supreme Court, whenever there is an administrative appeal of that kind, it must be exhausted.

Mr. WILLIAMS. If that case had not been heard and if this had been the law, the appeal they would have would have been to the Governor General?

Major HEDRICK. Yes, sir; and then to the Secretary of War.

Mr. WILLIAMS. And if the Governor General had found with the auditor, then the city would have had the right to have appealed to the Secretary of War?

Major HEDRICK. Not if he found with the auditor, no, sir.

Mr. WILLIAMS. That ended it?

Major HEDRICK. Yes, sir. Then they had their other right of appeal, which they always have, to the Philippine Legislature. It is a situation which is absolutely analogous to the situation here except that we do not have that administrative appeal. The War Department and Navy Department enter into a dispute over services or supplies furnished by one department to the other and the matter is settled absolutely by the Comptroller General.

Mr. WILLIAMS. I understand that situation here, and the appropriation warrant is drawn exactly as in this case.

Major HEDRICK. The city of Manila is divided up into provincial and municipal allotments and other allotments. The city of Manila is entitled to both allotments, two allotments, considered both as a province and municipality, so they get the two allotments. Then the sales tax is a special tax and they also get that allotment.

Mr. WILLIAMS. Does the city in this case claim that they were entitled to this water free?

Major HEDRICK. That they were entitled to it free.

Mr. THURSTON. When the metropolitan water district was instituted, did it pay the owners, whoever they might be, of the water system that they took over?

Major HEDRICK. The legislature turned over all of the water systems to them. The only ownership was over a century ago, when General Carriedo left a legacy in this will and created a water district for the city of Manila. Those funds accumulated until some 30 or 40 years ago, when a water district was organized.

Mr. THURSTON. And is their contention one of right backed by interest, or is that a matter of administrative claim that they make?

Major HEDRICK. As near as I can get their contention, it is that, as trustee for the Carriedo funds, and having built additional water systems by floating bonds, and so forth, they had a right to this, water free, although all the liability of the city in connection with water was taken over by the metropolitan water district under this act. The city, however, has this rather peculiar contention. They state that while they were running the water system, they furnished themselves water free, which you can readily see that they did not because they had to get the water and pay for it in some way, but they did for certain of their departments pay into the engineering commission for whatever water the different departments used.

Mr. THURSTON. Outside of the auditing of this matter, there should be an adjudication of that other matter to determine whether or not—

Major HEDRICK (interposing). Not in any mandamus action.

Mr. THURSTON. I say, there should be an adjudication—

Major HEDRICK (interposing). I do not think it is necessary at all.

Mr. THURSTON (continuing). To clear that up.

Major HEDRICK. It really is not a mooted question at all. It is a perfectly clear question. We know that the Philippine Legislature has plenary power over its municipalities, even to the power of extinction, wiping them out entirely.

Mr. THURSTON. Could the Philippine Legislature convey any vested right to the city of Manila without the city of Manila concurring?

Major HEDRICK. You do not think, sir, that a State in this country can do that?

Mr. THURSTON. I live in the State of Iowa and I have been a member of the legislature out there, and I am quite sure that the Legislature of the State of Iowa could not pass an act which would take away from the city of Des Moines, for instance, public grounds or buildings which it owned unless the State would see that the city was compensated for that.



Major HEDRICK. I should dislike to disagree with you, but the law is the other way.

Mr. THURSTON. I think not.

Major HEDRICK. I have just gone into that question very fully, and I am perfectly willing to stand on my ground on it.

Mr. RAGON. What is that? You say, as I understand it, that this is analogous, that the State Legislature of Iowa can not go in and do what to the land owned in a city?

Mr. THURSTON. The State of Iowa can not pass an act which would take away from a municipality of the State of Iowa property it owned without providing compensation for it, because that would be a vested right that the people in each particular municipality had which could not be taken away from those people and given to all of the people of the State or given to some private concern or person.

Mr. RAGON. Major, how do you contend they could do that? On what theory?

Mr. WILLIAMS. Let us not get into that.

Mr. RAGON. I would like to get the major's angle of it.

Mr. THURSTON. I do not care to pursue the matter further.

The CHAIRMAN. Have you studied section 3 that we added to this bill, with reference to the right of appeal to the court of first instance?

Major HEDRICK. I have given it some thought; yes, sir.

The CHAIRMAN. If that had been the law, then what would have been the course of procedure in the Philippines in these cases that you referred to?

Major HEDRICK. Then, you would have had the dual appeal. The administrative appeal is still preserved. It could have been an optional appeal. It could have gone into the court of first instance to try the thing out.

The CHAIRMAN. Section 3 was not in the original bill, but was offered as an amendment at the suggestion of some of the people interested as providing a means of appeal similar in a way to our own rights of appeal.

Major HEDRICK. Of course, that creates practically a court of claims in the Philippine Islands. The Philippine Legislature on several occasions attempted to create such a court. They had an act of the Philippine Legislature which provides that if the auditor does not decide upon a claim within 60 days, the matter can be taken into the court of first instance. The constitutionality of that act of the legislature has always been seriously doubted. However, it has never come up because the auditor has never waited 60 days.

A little over a year ago they passed an act by amending this act to provide that if the auditor did not decide within 60 days or if the decision was adverse they could go into the court of first instance. The Governor General vetoed that on the ground that it was contrary to the provisions of the organic act.

This creates exactly what the legislature has been attempting to create for some time, and gives the Philippine Islands a court of claims.

Mr. THURSTON. This bill, as I understand it, would provide that, instead of an executive refund, there would have to be an adjudication.

Major HEDRICK. There might have to be; not necessarily.

Mr. THURSTON. They would have the machinery for an adjudication?

Major HEDRICK. Yes, sir; just as we have it here, the legislature finally having the last control just as Congress has here.

Mr. THURSTON. In other words, if this bill were passed, the Philippine Legislature would be the final body that would eventually put breath into the controversy? Stated another way, if they made the appropriation to follow out the adjudication, it would be determined?

Major HEDRICK. Yes, sir.

Mr. THURSTON. Otherwise it would still lack the final settlement.

Major HEDRICK. Just as our Court of Claims judgments lack a final settlement.

The CHAIRMAN. Does any member of the committee wish to ask Major Hedrick any more questions?

Mr. RAGON. Pursuing the line Mr. Thurston started on, about the legislature, under your construction of the bill, regardless of what the decision of the auditor or of the governor general is, or regardless of what the decision of the Comptroller General might be, if they presented a claim and the legislature would not allow it, the claim could not be paid?

Major HEDRICK. No, sir. On this appeal, if there were no appropriation, if the appeal were an executive appeal or administrative appeal and the Comptroller General finally allowed the appeal, it would automatically be paid because the appropriation would still be available.

Mr. RAGON. I did not not catch that.

Major HEDRICK. If the appeal is merely an administrative appeal, and it was approved, it would be approved against an appropriation and would be paid without any further action of the legislature, because there would be an appropriation then available to pay it.

Mr. RAGON. If that were an administrative act?

Major HEDRICK. An administrative appeal.

Mr. RAGON. Let me get your significance of the administrative appeal. You mean the appeal from an administrative act by an official?

Major HEDRICK. I mean an appeal from the executive officer to the Governor General or the comptroller general under this bill.

Mr. RAGON. As I understood from your answer to Mr. Thurston, nobody but the Philippine government could pay one of these bills?

Major HEDRICK. None could pay the judgment of the court on one of these claims.

Mr. RAGON. Nobody but the legislature?

Major HEDRICK. Absolutely.

Mr. RAGON. If it went to the Court of Claims?

Major HEDRICK. Yes.

Mr. RAGON. But if it goes to the Governor General, then it is paid upon his decision, if it is in favor of the claimant, unless it went to the Comptroller General?

Major HEDRICK. Even if it goes to the Comptroller General, it would be paid if the appropriation is available.

Mr. WILLIAMS. It does not have to be a separate appropriation to take care of it.

Mr. RAGON. What I am trying to do is to distinguish between the claims that the legislature has to pass on and those that are paid without legislative action. You say those are administrative appeals

that go to the Governor General and to the Comptroller General. Now, how do you distinguish between the claims that are referred to the Court of Claims here and those that are appealable to the Governor General?

Major HEDRICK. There is no distinction at all, sir. I have said that in the Philippine Islands, under this bill, you could have more. They would have more in the Philippine Islands than we have here. They have got an optional appeal. They have either their administrative appeal, and by that I mean to the Governor General, or they can take it into court.

Mr. RAGON. In other words, it depends upon whether the fellow wants to go to the Governor General or whether he wants to go to the court? Is that the criterion? Is it the disposition of the appellant that governs the thing, as to whether he shall go to the Governor General or the Court of Claims?

Major HEDRICK. It is absolutely optional under this bill.

Mr. RAGON. In other words, if he wants to go to the Governor General, there is not any power that can send him to the Court of Claims.

Major HEDRICK. Certainly not. He can choose if it is an optional appeal.

Mr. RAGON. That is not the law in this country.

Major HEDRICK. I just got through saying that it was not.

Mr. RAGON. Do you know of any place where that is the law?

(No response.)

Mr. RAGON. Now, we will just separate ourselves from the identity of the present governor general or the past governor general or anybody else. Here is a man that has an appeal. He can come over here to this Court of Claims, as would seem to me to be the sensible thing to do, but you permit that man, and there may be millions of dollars involved, to go to the governor general instead of to the Court of Claims. It does not seem to me that this optional business is practicable.

Major HEDRICK. I do not see anything impracticable in it. You had it in this country.

Mr. RAGON. We had it and discarded it 75 years ago.

Major HEDRICK. And that is when you had your appeal to the Secretary of the Treasury.

Mr. RAGON. How long since have we gotten rid of it?

Major HEDRICK. Quite a while ago, because you created officials and gave them additional power and you recently created one that a great many people think you gave still more power to, the Comptroller General. In other words, Congress has always, even going way back, said that no official in the Government who has the power to expend money should be permitted to audit his own expenditures, and so you have built up the present accounting system which has lasted since 1878 and finally consolidated in the one man, the Comptroller General, who is a sort of a semiexecutive officer and still the representative and agent of Congress to check up and see whether or not the money Congress appropriates is paid out properly.

Mr. RAGON. Let us take some cases and run them down and I believe we can get a clearer understanding of it. You understand that under this new act, when a claim is decided adversely by the auditor, the party can go into the Court of Claims or he can go to

the Governor General and then to the Comptroller General. Now, what is his appeal? What appeal has he now? Then give the steps a man would take in a claim he would prosecute.

Major HEDRICK. To the Governor General and to the Secretary of War if the Governor General decides against the auditor, and there I want to call your attention to the fact that Congress has indicated by that very thing that they meant the insular auditor to have very important powers because the Congress did not give the Governor General the power to overrule him. If the Governor General disagrees with him, it has got to come up to the Secretary of War.

Mr. RAGON. Have you not overlooked one other ground of appeal there?

Major HEDRICK. In the case of the refund of customs duties, there is a provision in the tariff act for an appeal from collector of customs' decisions.

Mr. RAGON. At whose instance is that appeal?

Major HEDRICK. By the aggrieved party.

Mr. RAGON. The government?

Major HEDRICK. The aggrieved party may be the government or the agency, which is the secretary of finance.

Mr. RAGON. Can not the secretary of finance himself, under the present law, initiate an appeal?

Major HEDRICK. On that one class of claims only.

Mr. RAGON. Now, he does that as a representative of the government, not in an individual capacity?

Major HEDRICK. Undoubtedly.

Mr. RAGON. On your other appeal here, under your present law, who would have the right on behalf of the government to initiate an appeal?

Major HEDRICK. This will not change the situation on that one class of claims.

Mr. RAGON. It will not change that?

Major HEDRICK. Certainly not.

Mr. RAGON. You still leave the minister of finance with the power to make that appeal?

Major HEDRICK. This is before it ever reaches the auditor.

Mr. RAGON. If I read this act right, you take away from that collector of customs such authority and control as he now has under the law.

Major HEDRICK. You will have to wait until the Ynschausti case is decided, and then we will see which one is right. So far we have the indication our way in the decision.

Mr. RAGON. I think you have; I grant you that, and we might as well wait, for I do not see how we can get anything on this through this session of Congress.

Now, another feature of it. You stated a while ago, as I understood, that this bill was introduced here at the request of your department, and you say that you did not have anything to do with the drawing of the bill?

Major HEDRICK. I did not.

Mr. RAGON. When did you first see it?

Major HEDRICK. Oh, I saw it probably a week after it was drawn by Mr. Maguire.

Mr. RAGON. Did you see it before it was introduced?

Major HEDRICK. I am not sure, sir.

Mr. RAGON. I will ask you if the first time you saw it was when it was referred to you by the Secretary of War?

Major HEDRICK. Oh, no; I saw it before that.

Mr. RAGON. Do you know whether your department had this bill introduced or not?

Major HEDRICK. I do not.

Mr. RAGON. Who would know about that?

Major HEDRICK. Well, I imagine the legislative section of the general staff.

Mr. RAGON. General McIntyre would be more apt to know. This is all under his jurisdiction, is it not? the Philippine Islands and other insular possessions?

Major HEDRICK. He might; I do not know that he would be more apt to know than the legislature branch of the general staff of the War Department.

Mr. RAGON. Do you know who Mr. Maguire had to assist him in drafting this bill?

Major HEDRICK. I do not know that he had any one to assist him.

Mr. RAGON. Did you ever discuss the matter with Mr. Williams, of San Francisco?

Major HEDRICK. Yes, sir.

Mr. RAGON. I will ask if he is not the man who brought this very bill here to the different departments?

Major HEDRICK. I am quite positive he is not.

Mr. RAGON. I will ask you whether or not he is not the man who inspired the bill?

Major HEDRICK. I am quite positive he is not.

Mr. RAGON. Who did, then?

Major HEDRICK. I do not think—you seem to indicate that there is something ulterior about it.

Mr. RAGON. Not a thing in the world. I exonerate you of every bit of it, as well as the War Department. Notwithstanding the fact that the War Department is chargeable with the responsibility for the Philippine Islands, I do not think it had a thing in the world to do with the introduction of this bill.

Major HEDRICK. I think the proper person instigated the bill, and that is the auditor himself.

Mr. RAGON. The auditor himself drafted this bill.

Major HEDRICK. The first bill; not this bill, and sent it to the Comptroller General asking him to put somebody on it and give his thought to it as to a proper bill for the handling of the accounting system of the Philippine Islands. That is the result.

The CHAIRMAN. Would not that be the proper place for it to come from?

Mr. RAGON. Will the chairman let me get through?

The CHAIRMAN. Certainly.

Mr. RAGON. Now, you think that this bill was instigated by the auditor of the Philippine Islands? That is your best judgment?

Major HEDRICK. Yes, sir; that is my judgment.

Mr. RAGON. Did you know at the time that the bill was first suggested to you that he was being paid \$4,000 salary by the Philippine National Bank in addition to the \$6,000 that the Government was paying him?

Major HEDRICK. I have given no thought to the salary end of it.

Mr. RAGON. You have not investigated that at all?

Major HEDRICK. That is a matter with which I am not concerned. I have nothing whatever to do with it.

Mr. RAGON. Do you know whether your department has, or the Secretary of War, or the chief of the insular bureau? If you do not know—

The CHAIRMAN (interposing). Mr. Ragon, may I answer that in this way, that it is my judgment and information that the matter of salaries was not the main purpose of this bill, but that the War Department felt that those salaries should be raised, and I am sure that that part certainly was not instigated by the auditor.

Mr. RAGON. Let me ask the chairman a question. Would the War Department think that that salary ought to be raised if they knew about this other side issue of \$4,000?

The CHAIRMAN. I do not know.

Mr. RAGON. That is what I have been insisting upon all the time, that we get somebody from the War Department who knows. Here is a man who comes in with a bill to raise the auditor's salary \$4,000. That is a simple bill, but none of us knows anything about it. Evidently the War Department knows nothing about it, and I think something like that ought to be investigated.

I do not attribute to the major any ulterior motive.

Major HEDRICK. I know you do not.

Mr. RAGON. Nor to your department.

Major HEDRICK. I can say this about the salary, that General McIntyre told me the other day that one of the features of the bill that he was as much interested in as any other was the salary provision, that he had been endeavoring for some time to get men of the proper caliber to accept this position, which is a very important position, and in order to get one to accept it it was necessary for them to pay him a salary as they are now paying and that he was anxious to have it fixed in the law here at \$10,000, and I know it is the furthest thing from his thought that the auditor will draw any more than \$10,000.

Mr. RAGON. I want to say that there are not two men in the department that I have a higher regard for than I have for Secretary of War Davis and General McIntyre, and that is just what I have been insisting on, that they come up here and tell us these things; but, now, the general is perhaps correct in that statement, for he came before this committee in 1921 when Governor Towner was the chairman and made the statement that you havemade right now, that he thought that ought to be increased, but I do not think that as chief of the insular bureau he would say to this committee that he would give him the \$4,000 that he is now getting from that bank there in addition to what is provided in this bill. If he should say that, then this committee ought to disregard him just as the committee in 1921 disregarded him, and this committee ought to ask somebody why that Philippine National Bank is paying him this \$4,000 extra.

The CHAIRMAN. We are all unanimous on the point that he should not have more than \$10,000.

Mr. RAGON. How are you going to stop him from getting the \$4,000 he is getting now?

The CHAIRMAN. With a provision in this act.

Mr. RAGON. What is the attitude we are in right now? We are in the attitude of letting that fellow go around and get that \$4,000 in a way that none of us knows anything about. He gets as much money now as the Comptroller General of the United States, and if I am not correct in that, Major, you can correct me.

Major HEDRICK. I do not know what salary the comptroller gets, but, as I recall it, it is \$15,000.

The CHAIRMAN. No; it is \$10,000.

Mr. RAGON. And his living expenses are less over there than what they would be here, if we are to believe what is told us.

I was just interested in locating where the bill came from. I knew it came from him, but I never could get anybody to admit it.

Major HEDRICK. I think it came from the place where it should come from and gone to the channels where it has gone.

The CHAIRMAN. That salary business is an incidental part of the bill.

Mr. BRIGHAM. I would like to ask the major if it is part of the duties of the auditor under the law to audit the accounts of the Philippine National Bank?

Major HEDRICK. I think so, sir.

Mr. BRIGHAM. It would be part of his regular duties?

Major HEDRICK. Yes, sir; though possibly not under the organic act. I think, however, it is.

Mr. RAGON. It is under the organic act that the audit is made of corporations which the government owns and controls.

Major HEDRICK. I do not think the word "corporation" is referred to, but all governmental expense.

The CHAIRMAN. I have the law right here, which reads:

He shall perform a like duty with respect to all government branches.

Mr. RAGON. That is in the organic act?

The CHAIRMAN. Yes.

Mr. RAGON. Now, the Philippine Legislature supplements it and expands it.

Major HEDRICK. That is just the reason that we contend that he also audits these accounts of the collector of customs.

Mr. RAGON. I am sorry that I can not go with you all the way on that collector of customs matter.

Major HEDRICK. It is a close question.

Mr. RAGON. There is some part that he should have jurisdiction over.

Mr. BRIGHAM. Is this salary voted by the directors of the Philippine National Bank?

Major HEDRICK. That is what I understand.

Mr. BRIGHAM. I mean this salary to the auditor.

Major HEDRICK. Yes, sir.

Mr. BRIGHAM. And paid out of the funds of the bank?

Major HEDRICK. I could not tell you about that; I do not know.

Mr. BRIGHAM. Mr. Guevara just tells me that it is paid out of its funds.

The CHAIRMAN. Outside of this question of the auditor seeking to raise his own salary, which I agree with you is not very ethical, do you agree with us that the bill should naturally come from him in order to correct the law when he had a decision rendered against him?

Mr. RAGON. No, sir. The bill ought to come from the man we ought to have the right to have up here, which is General McIntyre.

The CHAIRMAN. But the auditor is appointed by the President.

Mr. RAGON. I know; but we have an insular bureau to tell us about these things and we have never yet in any hearing since I have been a member of this committee until this particular bill came up been without the presence of General McIntyre.

The CHAIRMAN. There is no particular reason why we could not have General McIntyre.

Mr. RAGON. I do not think so, either, and I have asked for him twice.

Mr. THURSTON. On the subject the bill refers to, and not on the salary, at the present time, Major, appeal is from the auditor to the Governor General?

Major HEDRICK. Yes, sir.

Mr. THURSTON. Then from the Governor General to the Secretary of War?

Major HEDRICK. Yes, sir.

Mr. THURSTON. And under the proposed bill it would provide that after the appeal to the Governor General he would go to the Comptroller General?

Major HEDRICK. Yes, sir.

Mr. THURSTON. It would eliminate the War Department. So if there were a little feeling between the insular government over there and the War Department it would tend to eliminate the War Department from controlling or determining those matters and place it here with the Comptroller General.

Major HEDRICK. That is one reason, and the other was that the Comptroller General's office was the real place for it.

Mr. THURSTON. If, ultimately, the Comptroller General makes a finding, is that finding considered an adjudication?

Major HEDRICK. It is a final finding administratively.

Mr. THURSTON. Does it have the same standing as an adjudication?

Major HEDRICK. No, sir; just as the Comptroller General's decisions on our own claims.

Mr. THURSTON. The reason I asked that is because of the last clause in the bill, which provides:

That no judgment against the Philippine government shall be paid until it shall have been reported by the minister of finance to the Philippine Legislature and a specific appropriation to pay same shall have been made.

Major HEDRICK. Of course, it would not be a judgment, not any more than a decision of the Comptroller General on a claim in the United States is a judgment.

Mr. THURSTON. But would that have to be reported after the determination made by the Comptroller General? Would that be a specific setting aside of funds of the Philippine government, or would it have to go to the legislature for an appropriation?

Major HEDRICK. It would not have to go to the legislature if there were an appropriation available. Your situation is identical in that respect with what we have here.

Mr. RAGON. Let me ask you this, Major. What would be the objection, if you are going to set up a court of claims over there, to eliminating this optional feature and turning it all over to the Court of Claims?



Major HEDRICK. I have not any objection to it at all. I think that the matter will eliminate itself.

Mr. RAGON. That is interesting. How?

Major HEDRICK. I think that, particularly as things now stand over there, probably all the claims will go to the court.

Mr. RAGON. I do not get you.

Major HEDRICK. In quite a number of years there have been very, very few appeals on the decisions of the auditor to the Governor General, and there never has been an appeal to the Secretary of War.

Mr. RAGON. There never has been?

Major HEDRICK. No, sir. So, so far as that appeal is concerned, it is really rather immaterial.

Mr. RAGON. If we are going to put up a court of claims, Major, and I have not studied the advisability of it, it seems to me that it would not be very practicable to have those two modes of appeal, and it seems to me that it would be more practicable if you would eliminate one. It strikes me that it ought to go to the court of first instance. You have that court of first instance now as to claims arising when the minister of finance exercises his right?

Major HEDRICK. In that one small class.

Mr. RAGON. In the customs business.

#### STATEMENT OF HON. SERGIO OSMENA, SPECIAL REPRESENTATIVE, PHILIPPINE LEGISLATURE

The CHAIRMAN. Senator Osmena and the Resident Commissioners of the Philippine Islands have submitted a memorandum in connection with this bill which I presume they would like to have go into the record. Then I am going to call on the Senator to make a statement to the committee.

Mr. OSMENA. I would like to read it to the committee.

The CHAIRMAN. Very well.

Mr. OSMENA. But first let me say, Mr. Chairman and members of the committee, that after hearing Major Hedrick's testimony I am more strongly opposed than before to the passage of this bill.

We are submitting a memorandum covering the grounds upon which we stand and asking the committee not to report this bill at this time, and I think that the testimony of Major Hedrick has strengthened any position against this bill. As a matter of fact, the writ of certiorari that Major Hedrick referred to had just been granted a few days after these hearings were begun, so the whole case is before the Supreme Court now and there is no reason for not waiting for the decision of the court.

If the main purpose is to clarify existing laws, it is exactly the province of the courts under the American system to interpret them. If this Congress is going to hear officials from the Philippine government upon petitions for the purpose of clarifying laws because the views of those particular officials are different from the views of others, you will be compelled to pass upon many questions coming from the islands. So I am going to ask the committee to wait for the decision of the court, and then, if the Supreme Court construes the law in a way not satisfactory to Congress and if the policy at that time will

be to change the law it may be taken up by Congress then with better advantage.

Suppose that the United States Supreme Court will reverse the action of the Supreme Court of the Philippine Islands? What is the reason for this bill?

Now, with your permission, I am going to read our memorandum [reading]:

MEMORANDUM ON THE BILL TO AMEND AND CLARIFY EXISTING LAWS RELATING TO THE POWERS AND DUTIES OF THE AUDITOR FOR THE PHILIPPINE ISLANDS

After careful study of the provisions of this bill as amended, we are constrained to register our opposition on the following grounds:

1. It is not necessary.
2. It contains objectionable provisions.
3. Even if its enactment were necessary and its provisions satisfactory, its passage would not be advisable during the present session.

THE BILL IS NOT NECESSARY

The provisions of the present law governing the auditor's office of the Philippines were drafted by very competent men in the early days of American occupation such as William Howard Taft, now Chief Justice of the Supreme Court, were considered very carefully, and have worked satisfactorily for many years.

The committee will realize the danger of making unnecessary changes in the laws of a country. Changes produce unsettlement in the performance of the duties of administrative officials and uncertainty in the relations between such officials and private citizens. Certainly no changes ought to be made in our laws unless such changes are really needed.

The excellent character of the substantial provisions of existing laws governing the auditor's office is fully recognized by those who are advocating the passage of this new legislation when they say that their intention is not to introduce any changes in the present system but simply to clarify the powers already conferred upon the auditor.

But if there is no need for changes in the system now, is there any necessity for clarification? In all these years, since the beginning of American occupation, the records show only two cases in which conflicting interpretations regarding the powers of the auditor have seriously arisen. And in the more important of these two cases, namely, the Inchausti case, a writ of certiorari has been granted, thus insuring opportunity for review by the highest court of the United States.

It will not be denied that in the American system it is the peculiar province of the courts to interpret the law. The highest court of the Philippine Islands, the members of which are appointed by the President of the United States with the consent of the American Senate, has passed upon the powers of the auditor in this particular case. The auditor questions this interpretation of the court. The matter having been brought before the Supreme Court of the United States, the insular auditor will have the fullest opportunity to present his side of the case, but before the highest court of the land has made a final interpretation of the meaning of those laws, changes in the way of clarification are presented to Congress.

If this body passes the bill at this time it would in effect take sides in the conflicting interpretations of the powers of the auditor upheld, respectively, by the Supreme Court of the Philippine Islands and the insular auditor himself. It would sit in judgment before the case has been finally concluded. If the Supreme Court of the United States reverses the decision of the Philippine court the action taken by the Congress of the United States would have been proved to be unnecessary. If, instead of reversing the decision of the Philippine Supreme Court, the United States Supreme Court should affirm it and Congress is not satisfied with the law as construed by the courts, then that would be the time to consider whether changes should be made.

It must not be forgotten that this bill has not been requested by the Philippine government. No official recommendation that we know of has come from the Governor General of the Philippine Islands. The chief financial officer of the Philippine government, the secretary of finance, and other administrative officials whose duties would be affected have not had an opportunity to express their

views. The Philippine Legislature has not initiated this measure and is not even informed about its provisions. And yet it would affect very greatly the manner in which the government functions and the autonomy which has already been conferred on the Filipino people not only in legislative but also in administrative matters.

Regarding the Supreme Court of the Philippine Islands, as has been already stated, its members are appointed by the President of the United States with the consent of the Senate. Americans compose the majority of its membership. Such men as Chief Justice William Howard Taft have praised the uprightness of this high tribunal and the character and legal ability of its members. The Wood-Forbes mission, in its report, found that the supreme court enjoyed "the respect and confidence of the Filipino people." Not a word of criticism against our highest tribunal of justice can be found in this or any other authoritative report.

#### THE BILL CONTAINS OBJECTIONABLE PROVISIONS

This bill increases without justification, to our way of thinking, the powers of the auditor. Such extension of authority covers both administrative and judicial functions—administrative in the sense that it gives power to control decisions entrusted by existing law to other administrative officials; judicial in the sense that the bill makes his decisions final and conclusive.

This unjustified extension of powers was partially recognized by the advocates of the measure when they introduced their amendment giving the courts jurisdiction over claims already decided by the auditor. But that particular defect remedied, there still remains that extension of powers in the administrative sphere which would give him jurisdiction over the refund of customs or internal revenue taxes "erroneously or illegally collected"—a jurisdiction which is vested under existing laws in the collector of customs and the collector of internal revenue. This would convert the customs and internal revenue bureaus into mere agencies of the auditor's office. Such complete reorganization of the Philippine administrative and financial system could hardly be contemplated by Congress.

The laws governing the customs service and the internal revenue office were drafted by highly competent American officials with the assistance of Filipinos. They have been in operation for many years. The administrative machinery for their execution has worked most successfully. If jurisdiction over matters pertaining to these services is given to the auditor in the form of direct administration or simply supervision, the result would be either inefficiency or duplication of work and additional and unnecessary expenses. That our bureau of customs and internal Revenue have been run with efficiency by competent men who have been in our civil service for many years is unquestionable. The department of finance which supervises these bureaus also has a very able and efficient chief, who has risen from the ranks of the service and whose ability is recognized by all those who have been in contact with the administration of our government. To subject the decisions of the collector of customs and the collector of internal revenue to review by the insular auditor or to take away from them powers which they possessed since the beginning would certainly be a reflection on the record of these faithful and efficient public servants.

Under the proposed law, in addition to the specific powers granted to the auditor, it is provided that he should exercise powers which are now or which may hereafter be conferred upon the Comptroller General of the United States. This provision means the extension to the Philippines of present and future legislation regarding the powers of the Comptroller General even though such legislation is, as it will be, determined by circumstances in the United States which may or may not exist in the same extent or to the same degree in the Philippine Islands. The same case would hold true in the amendment to extend legislation, present and future, regarding the jurisdiction of the Court of Claims and of Customs Appeals to the Philippines. And, if these and future changes are made without the indorsement of the Philippine Legislature, every one of them would be a violation of the autonomy granted by the United States.

The creation of new positions and the increase of salaries provided for in this bill are unwarranted. The proposed salaries of the auditor and his assistants would give them compensation entirely disproportionate to that received by other officials of the Philippine government holding correspondingly important or even more important positions. This provision will dispose of Philippine public funds raised out of taxes paid by the Filipino people without the consent of their representatives. It will also give rise to a general demand for salary increases which will seriously affect the finances of the government.

In the proposed amendment it is provided that the auditor shall appear and defend the government of the Philippine Islands in suits involving claims presented to the courts. This is certainly an extraordinary step, which together with the other provisions, would give the Insular Auditor powers and responsibilities pertaining to the chief financial officer of the government, the chief of the auditing department, and the chief of the legal department.

EVEN IF ITS ENACTMENT WERE NECESSARY AND ITS PROVISIONS ARE SATISFACTORY, WE DO NOT BELIEVE IT IS ADVISABLE TO PASS THIS LEGISLATION DURING THE PRESENT SESSION

The bill is an amendment to our constitution. If enacted into law its provisions can not be modified by the Philippine Legislature. Any amendment to the constitution of any country passes usually through many stages, the most important of which is approval by the people or their representatives. In the case of the Philippine Islands, greater care would be needed because the amendments to our constitution are handed out to us by the Congress of the United States. Our present organic act was the result of careful consideration and was agreed upon between the American and Filipino peoples. We have, as President Roosevelt said in 1908, a "constitutional government." The main principle of constitutional government is that it is based on an understanding between those who govern and those who are governed. But if this bill is passed at this session of Congress, it would mean a departure from this principle. And it would be a change in our constitution, a change in the manner in which we are governed without the full knowledge or consent of those who will thereby be affected.

If we may be permitted, we wish to submit to the committee that, in our judgment, the times do not call for mere adjustment of the different cogs of our governmental machinery, but for definite action on the fundamental phases of the Philippine problem. To that end we presented our memorial at the beginning of the present session. Favorable consideration of the issue raised in that memorial is what the Filipino people expect from the wisdom and high sense of justice of the Congress of the United States. They are far from expecting unjustified changes which may be forced upon them, and, least of all, changes which represent backward steps in their government, a reflection on the record of their officials, disposal of the funds in their treasury without their consent, additional and unnecessary expenditures, and a reorganization of their government neither desired by them nor called for by existing conditions.

Respectfully submitted.

SERGIO OSMEÑA,  
*Special Representative, Philippine Legislature.*  
ISAURO GABALDON,  
*Resident Commissioner, Philippine Islands.*  
PEDRO GUEVARA,  
*Resident Commissioner, Philippine Islands.*

The CHAIRMAN. Do you want to supplement that statement with anything else?

Mr. OSMEÑA. There are one or two gentlemen here I should like to have you hear.

Mr. THURSTON. Could I ask the gentleman, first, this question? Do you understand that at the present time, under the law of our United States, our customs officials do not have the authority to make refund?

Mr. OSMEÑA. They have the power to deal with custom taxes. If the party concerned is not satisfied with the decision, they go to the board of appraisers in New York and then to the Court of Customs Appeals.

Mr. THURSTON. Do you not feel that in dealing with the customs some other machinery should be provided in relation to refunding collections, rather than to just leave it vested in the person where the authority now is?

Mr. OSMEÑA. We believe that the present system in the Philippines is very good. It has been there for many years, and has been

satisfactory. Of course, in case the party affected is not satisfied with the decision of the collector, he can go to the courts, and if the Government is not satisfied the secretary of finance can have the case taken to the courts.

Mr. THURSTON. Is it not the present practice for the courts to make the refund?

Mr. OSMENA. No, the courts only decide customs cases on appeal.

Mr. THURSTON. Is it not open to a very pernicious practice to allow the collector authority also to be a refunding authority?

Mr. OSMENA. That is only done in cases where duties are paid erroneously, after public hearing and subject to judicial determination in case of appeal.

Mr. THURSTON. Do you not feel in any respect that it would be better to have additional machinery to go on through the Court of Claims?

Mr. OSMENA. So far as I know, the present arrangement is satisfactory. Of course, there is always a place for improvement, but in the Philippines, since the beginning, they have never had any trouble with the working of these laws. If it is shown to us that it is better to make changes, we would willingly do it ourselves.

Mr. THURSTON. Not in regard to this bill particularly, but do you not feel that it would be better to have a procedure provided so that you would have other agencies of your government check refunds?

Mr. OSMENA. We think we have it now. Of course, this is the procedure: Supposing you go to the customs service and pay your duty and the assessment is unsatisfactory to you, you are obliged by the law to pay the tax and protest.

Mr. THURSTON. But say that I pay it and ask for a refund, and the collector agrees that I should have it. He pays it back without any supervision of any of your other public officials. Is not that true?

Mr. OSMENA. No.

Mr. THURSTON. Do you not feel that your government and your people are entitled to supervision over these funds by some other person, other than your collector?

Mr. OSMENA. Well, of course, if the collector is not doing his duty, he ought to be removed; but while he is doing that we see no reason for very many checks.

Mr. RAGON. At the present time, as Mr. Thurston states, suppose the collector of customs makes a refund. What he suggests is that someone check the collector of customs up. Under the present law, if I understand it, the minister of finance can check the collector of customs if he wants to?

Mr. OSMENA. Yes.

Mr. RAGON. And, on the other hand, if the claimant is not satisfied, he can likewise take his appeal?

Mr. OSMENA. Yes, his action is not really final except when the party affected or the secretary of finance is satisfied with the decision, because there is a certain period within which appeals can be taken into the courts.

Mr. RAGON. When money is covered into the Treasury of the United States, we usually have a line of procedure so that all the claims and refunds have been carefully scrutinized, and the agency

of the Government receiving the funds does not have the authority to pay them out without using that procedure.

Now, on the question of customs, deciding whether or not a refund should be paid, that might involve a technical state of facts that nobody but a customs collector might be familiar with. Is that not correct?

Mr. OSMENA. Yes.

Mr. RAGON. Now, in the United States, if I understand the procedure correctly, we take it to our customs collector first. As to the finality of his decision I do not know, but my impression is he can make a collection and then either side can go to the Court of Customs Appeals.

Mr. OSMENA. To the Board of Appraisers.

Mr. RAGON. And then to the court?

Mr. OSMENA. And then to the Court of Customs Appeals.

Mr. RAGON. Under the present law of the United States suppose that both sides are satisfied with the decision of the collector of customs. What becomes of that claim?

Mr. OSMENA. It is settled.

Mr. RAGON. It is settled?

Mr. OSMENA. That is my impression.

Mr. RAGON. Major, can you give us light on that?

Mr. MILLIGAN. As I understand it, the decision of the court has not been rendered on the position of the auditor.

The CHAIRMAN. And it will not be tried for a year yet.

Mr. MILLIGAN. I think that we ought to wait for that decision. I move that we postpone hearings on this bill until the next session of Congress.

The CHAIRMAN. I wish you would not make that motion now. There are not enough members of the committee here. We did not propose to take any action to-day. I prefer to have that motion made in executive session.

Mr. MILLIGAN. Why in executive session?

The CHAIRMAN. Because we have not a quorum present.

Mr. MILLIGAN. And possibly someone would make the point of no quorum?

The CHAIRMAN. That point could be made now.

Mr. BEEDY. Before you go on with that, a very interesting question has been asked which to my mind is pertinent. The only thing that has been troubling me is whether it is the duty of the minister of finance in the Philippines to keep a check on the action of the collector of customs in the Philippines. Assuming that the present collector of customs in the Philippines is a very honorable, faithful public official and, intending no reflection upon him, I can see how, if it is not the duty of somebody to investigate the facts in each return of customs duties once collected, a collector of customs might work great injury to your people.

Now, I had assumed that in the United States no return of collections could be made by any one officer and that that would end the matter, but that in all those cases where money once collected in customs has been returned and refunded the facts must be checked by some other official so that our Government could not be in any way defrauded.

Now, the question has been asked of the Major whether, if a complaint is filed here with the customs collector and a demand made for the return of money claimed to have been illegally paid, that money can be returned and that that ends the matter and there is no check on it, and the Major has not answered that question.

Major HEDRICK. I am not sure about the system as it now is.

Mr. BEEDY. To my mind we might as well not go any further, because, so far as I am concerned, unless I know what the situation is here I do not want to take any action down there, and let me say this, that if we are going to make a change we had better change our own laws first before we set somebody else's house in order.

Major HEDRICK. I just wanted to state that I think your theory certainly must be correct, because formerly we had our commissioner of customs who was in fact a comptroller, though not in name, and he passed on all of these refund cases just as the Comptroller General does on other claims.

Now, when that office was abolished and when Comptroller General McCarl came in, he demanded from the collector of customs reports of all their refunds so he could check them over and they refused to give them to him, and you have a sort of a tie-up in your situation there and I am not just certain how it is being handled now.

Mr. BEEDY. I can not conceive of any government administered on a business basis that would permit one man to collect money and return it whenever he wanted and not have any other public official have any say about it, with no duty imposed upon some other public official to make a specific investigation of every claim for return of customs. I think there must be some check.

Major HEDRICK. I think you will find there is some check, but I am not familiar with it.

Mr. WILLIAMS. Is there anything else?

Mr. RAGON. I sat here this morning without a quorum in order to expedite matters. I want to hear these bills, but I do not want to take time away now from a bill in the House, the agricultural bill, that is very important.

Mr. WILLIAMS. I am willing to come back to-morrow or the next day or any time that the chairman wants me to.

Mr. MILLIGAN. I will renew my motion.

The CHAIRMAN. To adjourn?

Mr. MILLIGAN. No; to postpone hearings until the next session.

Mr. RAGON. I am not trying to delay the hearings one way or the other.

The CHAIRMAN. We can not entertain that motion. We will have to raise the point of no quorum. I think it would be better, in order to settle the proposition, to adjourn until to-morrow, but to-morrow we would like to take up this Porto Rican bill and take action on it.

Mr. RAGON. Would you care to set a date when we can hear all these fellows?

The CHAIRMAN. I think we had better say that we will meet to-morrow at 10.30 and consider this Porto Rican bill and there will be no hearing on this bill to-morrow.

Mr. MILLIGAN. I would like to know what the status of my motion is before we go.

The CHAIRMAN. As to your motion, if you insist on making it, we will have to insist on a point of no quorum.

Mr. MILLIGAN. Who is going to raise it?

The CHAIRMAN. I am, but I hope you will not make that motion because these gentlemen have not all been heard on this matter.

Mr. MILLIGAN. I think it should be laid over until the next session of Congress.

The CHAIRMAN. Some of these people are going back to the Philippines. That is not in their interest, to say that they should not be heard.

Mr. MILLIGAN. I did not say that; I said they ought to be heard later.

The CHAIRMAN. We will fix the time later.

Mr. RAGON. There is another thing I want to take up, although we have not many here, but I want to get the sense of this committee on it.

The CHAIRMAN. Do you want this to go into the record?

Mr. RAGON. Yes. It is what our committee's attitude on the Wainwright bill is.

The CHAIRMAN. We can consider that to-morrow.

Mr. RAGON. I would like to have that included among the things to be heard to-morrow, and I would like either to have the chairman have Mr. Wainwright over here or invest me with authority to call him.

The CHAIRMAN. You can ask him to come over here, and if he will come at 11 o'clock, or something like that, we will be able to hear him. We will have the meeting start at 10.30 and begin on the other proposition.

Mr. RAGON. May I delay you for just two minutes? Here is the way I view this bill here. There is not a man around this table who does not want to do the best thing for the situation over there, and I do not care who he is, but it is a case of struggling in the dark in many instances in connection with this bill. I can think of a dozen other things that have been proposed one way or another by the Filipinos on one side and by the governor general on the other, and this committee ought to know the ultimate facts. There is only way by which we can get them, and that is by having a commission go over there and get in touch with the first-hand knowledge and also to discriminate between propaganda and real facts.

I think that I have studied as much so as any man in this Congress the question of the Philippine Islands. I have studied every report that I could get, but I still do not get a concrete view of the Philippine Islands. So far as I am concerned, I think I will go there this summer, but not on any commission, and I am not urging this in order to get an opportunity to go on a government expedition, but I do think that we ought to provide for a commission of the House and Senate, the body of the government which is charged with the first responsibility over the Philippine Islands, to go over there at stated intervals.

I believe there is such a suggestion in the Wainwright bill, and that is the reason I suggested we have a hearing on that bill, although the chairman has indicated that that can be heard to-morrow.

The CHAIRMAN. It was my intention to have hearings on it, and the only thing that has postponed it is because of the fact that the



Porto Rican and the Philippine people wanted to be heard on their bill and our time is limited, but I think we can do that to-morrow. I do not think there is any opposition particularly to the Porto Rican bill.

Mr. MILLIGAN. Regular order, Mr. Chairman.

The CHAIRMAN. Does some one make a motion to adjourn?

Mr. MILLIGAN. No; I have a motion pending. I want some one to make a point of no quorum.

The CHAIRMAN. I make it.

Mr. MILLIGAN. And I think I shall insist on a quorum hereafter.

The CHAIRMAN. There ought to be a quorum here, and if you can get a quorum together you will please the chairman very much.

Mr. MILLIGAN. Well, we want to act.

The CHAIRMAN. We are just listening to-day.

Mr. MILLIGAN. Well, we want to listen, too, but we can not even listen, as I understand it.

The CHAIRMAN. We will now adjourn until to-morrow at 10.30.

(Whereupon, at 12.10 o'clock p. m., an adjournment was taken until Tuesday morning, May 11, 1926, at 10.30 o'clock a. m.)

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Friday, May 21, 1926.*

The committee met at 10.30 o'clock a. m., pursuant to call of the chairman, Mr. Kiess (chairman) presiding.

The committee had under consideration the bill (H. R. 11617) to amend and clarify existing laws relating to the powers and duties of the auditor for the Philippine Islands, as follows:

[H. R. 11617, Sixty-ninth Congress, first session]

A BILL To amend and clarify existing laws relating to the powers and duties of the auditor for the Philippine Islands

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That sections 24 and 25 of the act entitled "An act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands," approved August 29, 1916, as amended, are amended to read as follows:

"SEC. 24. There shall be appointed by the President an auditor, who shall examine, audit, adjust, decide, and settle all accounts and claims for or against the Philippine government pertaining to, or growing out of, the revenues and receipts from whatever source of the Philippine government and for or against the provincial and municipal governments of the Philippines, including refunds of taxes and customs, public trust funds and funds derived from bond issues; and shall examine, audit, adjust, decide, and settle, in accordance with law and administrative regulations, all accounts and claims for or against the Philippine government growing out of the expenditure of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof; and shall perform like duties to those hereinabove described in respect of all accounts and claims for or against all government branches, and shall examine and audit the accounts of all corporations in which said government shall have an interest.

"All such adjustments, decisions, and settlements of the auditor shall be final and conclusive and shall never thereafter be reopened or considered except as specifically provided in this act. The auditor shall, except as provided in this act, have like authority as is now or may hereafter be conferred by law upon the General Accounting Office under the direction of the Comptroller General of the

United States. He shall keep the general accounts of the government and preserve the vouchers and other papers pertaining thereto.

"It shall be the duty of the auditor to bring to the attention of the proper administrative officers expenditures of funds or property which in his opinion are irregular, unnecessary, excessive, or extravagant.

"The administrative jurisdiction of the auditor over accounts, whether of funds or property, and over all vouchers and records pertaining thereto, shall be exclusive. He shall from time to time make and promulgate general or special rules and regulations not inconsistent with law prescribing the method of accounting for public funds and property and funds and property held in trust by the government or any of its branches, its provinces, or municipalities, and he shall have like jurisdiction and authority in respect of the method of accounting of all corporations in which the government owns an interest.

"Any officer accountable for public funds or property may require such reports or returns from his subordinates or others, as he may deem necessary for his own information and protection.

"As soon after the close of each fiscal year as the accounts of said year may be examined and adjusted the auditor shall submit to the Governor General and the Secretary of War an annual report of the fiscal concerns of the government, showing the receipts and disbursements of the various departments and bureaus of the government and of the various provinces and municipalities, and shall also make a similar report of his examination and audit of the fiscal concerns of all corporations in which the government owns an interest; and shall make such other reports as may be required of him by the Governor General or the Secretary of War.

"The office of the auditor shall be under the general supervision of the Governor General and shall consist of the auditor, two assistant auditors appointed in the same manner as the auditor, and such necessary employees as shall be prescribed by law. One of the two assistant auditors shall be learned in the law. The assistant auditors shall sign such official papers and perform such other duties as the auditor may prescribe, and in event of the death, resignation, disability from whatever cause, or absence of the auditor from the jurisdiction, the Governor General shall designate one of the assistant auditors to act as auditor and to have charge of such office.

"In the execution of their duties the auditor and the assistant auditors are authorized to summon witnesses, administer oaths, and to take evidence, and, in pursuance of these provisions, may issue subpoenas and enforce the attendance of witnesses, as provided by law.

"SEC. 25. That any person aggrieved in respect of his account or claim by any action or decision of the auditor may, within ninety days, take an appeal in writing to the Governor General, which appeal shall specifically set forth the particular action or decision of the auditor to which exception is taken, with the reasons and authorities relied upon for reversing such action or decision.

"If the Governor General shall confirm the action or decision of the auditor, he shall so indorse the appeal and transmit it to the auditor; and such action or decision shall thereupon be final and conclusive, and shall never thereafter be reopened or considered except as specifically provided in this act. Should the Governor General fail to sustain the action or decision of the auditor, he shall forthwith transmit the appeal to the Comptroller General of the United States, together with his grounds of disapproval and the papers necessary to a proper understanding of the matter. The decision of the Comptroller General of the United States in such case shall be final and conclusive, and shall never thereafter be reopened or considered except as specifically provided in this act."

SEC. 2. Section 29 of such act, approved August 29, 1916, as amended, is amended by striking out "auditor, \$6,000; deputy auditor, \$3,000," and inserting in lieu thereof "auditor, \$10,000; assistant auditors, \$6,000 each."

SEC. 3. There is hereby conferred upon the Court of First Instance in Manila, with right of appeal as in other cases, the same jurisdiction to hear and determine claims against the government for the Philippine Islands as that now or which may hereafter be conferred on the Court of Claims and the Court of Customs Appeals to hear and determine claims against the United States: *Provided*, That no suit shall be brought against the government for the Philippine Islands on any claim which shall not have been presented to the insular auditor at least three months prior to the date of institution of such suit: *Provided further*, That copies of the petitions shall be served on the insular auditor, who shall appear and defend the government for the Philippine Islands: *And provided further*,

That no judgment against the Philippine government shall be paid until it shall have been reported by the minister of finance to the Philippine Legislature and a specific appropriation to pay same shall have been made.

The CHAIRMAN. Gentlemen, we only have one other bill that the committee is considering, and that is the bill relating to the Philippine auditor, and I have asked Mr. Davis, Secretary of War, to come before the committee and to make a statement as to the advisability of passing this legislation, and I am sure the Secretary will be glad to answer any questions of members of the committee.

#### STATEMENT OF HON. DWIGHT F. DAVIS, SECRETARY OF WAR

Secretary DAVIS. Mr. Chairman and gentlemen, I want to express my appreciation of your courtesy in allowing me to come up a little later this morning, as I had a Cabinet meeting earlier.

At the chairman's suggestion I will make a very brief statement along broad general lines. At his request I have asked General McIntyre and Mr. Hedrick to come up with me, as they are familiar with the details of the bill.

Congress when it originally provided for the government of the Philippine Islands evidently intended to safeguard particularly the question of expenditures. That is very evident from the hearings and from the care with which they drew up the provisions relative to the expenditures in the islands. They provided for this in two ways: First, by establishing, as far as it was applicable to the conditions in the islands, the general system of accounting which existed in this country, and, secondly, by providing for a presidential appointee in the person of the auditor to carry out this provision. They evidently went on the theory, which I think has always been accepted in this country, that the accounting of disbursing and settlement of claims, etc., should be done by a different official from the official who actually contracted the obligation.

The principal change, as I see it, that they made at that time from the conditions existing here was that the auditor passed upon those matters before the payment of the claim, rather than after, as is done in this country, and it seems to me that is preferable to our system. I suppose it could not be done here on account of the tremendous mass of business. It seems to me that the idea is really better than the system as carried out in this country.

Recently there has come up a question as to what the Congress actually intended in the language it used in the establishment of the office of auditor. The Supreme Court of the Philippine Islands in some recent decisions, which are now before the Supreme Court of the United States, and particularly in some dicta in connection with those cases, seems to feel that the auditor has not the powers which we have always felt that he had under the law, and these cases are brought up on the details of the auditor's powers rather than on the whole question. In other words, they do not take up the whole question as to his powers, but even if they are decided, they are only decided on certain details as to those powers. The question is very largely what Congress intended when it established this position, and what powers it actually gave to the auditor, and one of the purposes of this bill, as I understand it, is to clarify that question. The decisions of the Supreme Court here will not

clarify the whole situation, as I see it. That will only clarify it as to certain details, but there does apparently exist this question as to what Congress actually intended in giving the auditor these powers.

It seems to me it is very important to have these two conceptions clarified because wherever you have a question of that sort, particularly between the Supreme Court of the Philippines, made up of a majority of Filipinos, and between American officials, there is always the possibility and probability, you may say, of irritation, and naturally it is highly desirable to have the language and powers set forth in as clear-cut a way as possible in order to remove as far as possible the possibility of irritation and friction.

This general accounting system has worked successfully, I think, in this country for more than a century. It has worked successfully in the Philippines and the principal point, it seems to me now, is that it is desirable to clarify the whole question and to state just what Congress intends the auditor to do. Is he to be merely an accountant or is he to be an auditor with the powers analogous to those of the Comptroller General of this country? We have always felt that he had the proper powers, and that that is what Congress intended, but that interpretation is now in question due to these decisions of the Supreme Court, and particularly to some of the dicta in the case.

Another change which is made in the bill is the question of the salary of the auditor. That is a change more in the method of paying the salary than in the actual amount. The auditor now gets \$3,000 in his capacity as auditor and he is also paid \$4,000 for the work which he does for the Philippine National Bank. That gives him a total of \$10,000. The only question it seems to me on that is whether the bill is properly worded to see that he does not get both salaries; in other words, if you gave him a salary of \$10,000 you would not probably, I imagine, want to give him the \$4,000 that he gets from the Philippine National Bank, and if there is any question on that point I think it would be well to clarify that by an amendment now to make certain.

This question of salary of the auditor has been up for many years. It came up originally, as far as I know, under Secretary Baker in the Wilson administration, and he recommended that there should be an increase in the salary of the auditor. In fact, I think he had great difficulty in getting an auditor under the salary as set out in the bill. If I am not mistaken, I do not believe he made the appointment himself, as it was toward the end of his term. He did employ under contract a manager of the Philippine Bank, I think, at a salary of \$30,000 to start the bank, but I believe the president auditor originally went out there in some capacity with the bank at a salary of \$10,000. Secretary Baker at that time recommended to Congress an increase in the salary, I think, to this same sum of \$10,000.

Secretary Weeks had a good deal of difficulty also in connection with getting an auditor and he felt very strongly that the salary should be increased to \$10,000 and this provision of having two salaries was finally worked out, so the auditor at present does get \$10,000, although not directly provided for in the bill. So it seems to me it would be wise to clarify that situation and put it on the better basis of having the actual salary set forth in the bill, with the wording perhaps, that this would be the only salary that he receives, so as to

remove any possible ambiguity as to any salary from the national bank.

The other new thing in the bill is the question of the right of the claimant to sue the Philippine Government, in giving the court of first instance the powers which are given to our Court of Claims under our system. That is a new thing, but the Philippine Legislature itself tried to pass a similar bill, which I believe was nullified by some of the wording, also of Section 2, which more or less nullified the provision of the bill. It seems to me it safeguards in every way their rights because it gives an appeal to the Philippine court, the court of first instance. The legislature would have to act in order to make an appropriation to carry out any claims that were awarded.

I believe that one of the very important features aside from the increase in the salary of the auditor, which is highly desirable, as it is very difficult to get good men to take these positions, giving up their positions in this country—is to clarify the situation there as to the powers of the auditor, and to remove any possible source of irritation from this particular office.

It is always a difficult proposition, as you know, where American officials are dealing with courts or legislative bodies in other countries, and we should remove any possible source of irritation and friction that we can. You all know that we have a certain amount of friction constantly between the legislature and the governor general as to the distinction between their powers, and there has now recently arisen this question as to the powers of the auditor. If we can clarify through legislation the desires of Congress as to what they wish their auditor to be, I believe it to be highly desirable in the interests of the whole situation.

MR. CHAIRMAN. I believe that is all I care to say in a direct statement.

THE CHAIRMAN. Mr. Ragon, have you any questions that you desire to ask?

MR. RAGON. I would like to ask the Secretary one or two questions.

MR. HARE. There is one question that has bothered me, and that is with respect to page 5, to strike out the words "Auditor, six thousand dollars," and "three thousand dollars," and insert in lieu thereof "Auditor, ten thousand dollars, and assistant auditors." I wonder if there is any limitation as to the number of assistant auditors.

Secretary DAVIS. Yes, and on page 4, line 9, of the provision—

MR. HARE. This is the section that is referred to as section 2, on page 4?

THE CHAIRMAN. Yes; we amended that.

MR. KNUTSON. One of the assistant auditors under this bill would be an attorney.

MR. RAGON. Mr. Secretary, as I understand you, this bill as you construe it is simply to clarify the existing law that they have there now?

Secretary DAVIS. I think it does not give any additional powers unless in one case the Supreme Court should decide, that is in the Inchausti case, where the decision of the Supreme Court of the Philippine Islands was corrected. In that case it would give him powers which we have felt along that he had.

MR. RAGON. If the Supreme Court heard the case of Inchausti, or whatever it is called—that is, if it refers to the Supreme Court of the Philippine Islands—why would that not clarify the act?

Secretary DAVIS. That would clarify it as to that one particular point, but there are many other points that can not be brought up.

Mr. RAGON. It simply establishes the power of the auditor that is there involved in it, and not limited itself to individual cases?

Secretary DAVIS. No; the power of the auditor in one particular detail only, but there could be a succession of suits brought as to other powers in connection with the auditor, all of which could be brought and awarded to the Supreme Court, and you would have an indefinite amount of litigation.

Mr. RAGON. Then you do not think the decision in this case would have much effect?

Secretary DAVIS. It would have effect as far as it goes, but it does not take in the whole powers of the auditor. Even if the decision of the Supreme Court overruled the decision of the Supreme Court of the Philippine Islands on that one point, there could still be a succession of suits and other points relating to the powers of the auditor which were in conflict with the whole situation and delay a final decision for many years.

Mr. RAGON. Would this decision here serve as a precedent for all of them?

Secretary DAVIS. I do not believe so. I think from a legal standpoint—I do not know whether you are a lawyer, but you know lawyers can bring a succession of suits on small points and there is constant friction and irritation, which I am afraid would continue.

Mr. RAGON. Now, the question in my mind on this is—and I am laying this foundation as a basis for another question—as to whether at this time we ought to enact this legislation. We have that Supreme Court action pending here and now here is another element that enters into it. The Thompson Commission is going over there to make a survey of the islands and I assume they will go physically into the islands. Suppose they want to make some recommendations? Now, we have a commission that has been voted out of this committee here that will go next year. Suppose they wanted to make some recommendations as to the existing policies that govern and are maintained in the Philippine Islands, might it not run into some contradictions here? It is just a question in my mind whether we ought to do it at this time. What do you think of it with reference to that, the Supreme Court decision, as to the Thompson commission and the congressional commission?

Secretary DAVIS. The Supreme Court decision, I think, will deal only with one feature of this matter. Your action, if you take this action, would clarify even that situation regardless of the decision of the Supreme Court. In other words, if the decision of the Supreme Court affirms the decision of the Philippine Supreme Court, then your bill here would say that you intended the auditor to have these powers. If it does not affirm the decision of the Supreme Court then that settles that one particular ambiguity, if it is an ambiguity but only that one ambiguity. Mr. Thompson's visit might or might not go into the matter of recommendation as regards the auditor, but his recommendation would not be before you for another year or so, in a short session of Congress, and it is doubtful if anything would be done and you have a continuation of this situation which may mean constant friction and irritation for another two or three years. If he does not go into this then you are in the same situation that you are

to-day. But every minute that you delay means the possibility of constant friction.

Mr. RAGON. Have we ever had any trouble before except as to these cases here?

Secretary DAVIS. No, because the Supreme Court of the Philippine Islands—at least no one has raised this question in the Supreme Court of the Philippine Islands, but with these decisions on their part and with the dicta in these cases, it seems to indicate that they favor cutting down the powers of the auditor; at least they feel that the law does not say what they think it does. The point is that you would certainly have encouragement for constant suits and increasing friction.

Mr. RAGON. Then it is your idea that this Supreme Court decision here would affect only the powers of the auditor with reference to the collector of customs?

Secretary DAVIS. Yes.

Mr. RAGON. Now there is another feature of the bill. You give the auditor the power here to prosecute and to represent the Government there in all claims. Do you think it is proper to take that away from the department of justice of the Philippines and give it to the auditor?

Secretary DAVIS. They have no claim department, as I understand it, in the department of justice as we have here. That is not established. The facts upon which any case is made, whether it is made by the attorney general or by the auditor, must necessarily come from the auditor's office, and in a sense it would be a duplication if the prosecution was done by the attorney general. You would have to go to the auditor anyhow.

Mr. RAGON. He has to do it now at any rate, does he not?

Secretary DAVIS. Who?

Mr. RAGON. The attorney general.

Secretary DAVIS. I suppose so; yes. I do not know exactly how that is.

Mr. RAGON. He would have to. What is the reason for taking this away from him and putting it in the hands of some deputy auditor—that is what you are doing under this bill?

Secretary DAVIS. I think you would get better efficiency in the prosecution of suits because the facts must come from the auditor anyway.

Mr. RAGON. But you are taking a deputy here, or an accountant, and giving him the power and the authority to supplant the man who is supposed to be at the head of a department. I want to know how you arrive at it, it would be more efficient under the manipulation of this deputy auditor than by the attorney general of the Philippine Islands.

Secretary DAVIS. In this particular Inchausti case I think the attorney general refused to prosecute.

Mr. RAGON. That is a question that I wanted to ask you about, since you have brought it up that he refused; was the attorney general ever called on in that case?

Secretary DAVIS. That was my understanding. Have you any of the details as to that, General McIntyre?

General MCINTYRE. Yes, sir; you are correct about that.

Mr. RAGON. The attorney general was called on. Well, the Governor General appoints that attorney general, does he not?

Secretary DAVIS. Yes.

Mr. RAGON. And he has the right to remove him. Now, why did not the Governor General remove him when he refused to prosecute that case, if he was wrong?

Secretary DAVIS. I do not know why it was in that particular case.

Mr. RAGON. The Governor General has the right also to appoint the revenue or customs collectors, has he not? The Governor General appoints the collector of customs, does he not, and has the right to remove him? He has the right to appoint the minister of finance. Now, this is just a question of policy with me from the point of view of our government, what is the use of taking this whole bunch of claims that naturally are numerous over there, out of the department of justice and putting them under a deputy auditor? That is what you are doing. What is the good reason for that?

Secretary DAVIS. Your attorney general would have to go to the auditor anyway for his facts.

Mr. RAGON. That is true; every lawyer has to go to some lawyer for his facts. The Attorney General here has to do that, Mr. Secretary, and I am just giving you my reactions to this—it looks to me as if you are absolutely demoralizing the department of justice over there.

Secretary DAVIS. Well, I do not see that that would be the result in this particular case. The auditor would be the representative.

Mr. RAGON. Now the auditor comes up here for a decision on a claim, we will say; it may be a personal injury. He has the final say as to that claim. The man appeals that claim, and then you have this judge sitting there as a prosecuting attorney in your Court of Claims. Does that seem to you to be the right policy?

Secretary DAVIS. If you have your appeal, I think the man is perfectly safeguarded in his rights.

Mr. RAGON. Does that look like the ethical thing to do, for the judge to be there as prosecuting attorney in a case that he is deciding?

Secretary DAVIS. Yes; so long as you have an appeal to the courts.

Mr. RAGON. Should he go into this other court as prosecuting attorney? Is that the attitude we want to be put in?

Secretary DAVIS. The attorney general would go in as the representative of the Government.

Mr. RAGON. But he does not decide the case.

Secretary DAVIS. But he is representing the Government. Both officials are representing the Government in the claim.

Mr. RAGON. One representing it as the judge in determining the claim, and then if the man loses the appeal and goes into the court of appeals the judge would be there as prosecuting attorney?

Secretary DAVIS. But he would have no decision in the case. If he had the decision in the case I think you would be right, that is a man deciding an appeal from his own decision.

Mr. RAGON. He would have under your bill.

Secretary DAVIS. Not in the court of claims. That is the point. The point is as to whether he forms his own decision. He does not.

Mr. RAGON. But he prosecutes his own decision, or defends it, rather—defends his own decision.

Secretary DAVIS. Well, so long as he has not the decision in the case.

Mr. RAGON. I just call that particular matter to your attention.



Secretary DAVIS. In those cases in this country, if the Attorney General should have the decision in a certain claim, on an appeal from that decision he would prosecute that case in the court. Now as long as the courts have the final decision and he did not have the decision, I do not see any difficulty there. If he had the decision on an appeal from his own case, I would agree with you.

Mr. RAGON. I want to go with you on all these things but I certainly can not do so in that respect.

Secretary DAVIS. I think it is a question as to who has the final say. For instance, if on an appeal from me, as Secretary of War, I have the final decision of the case, I would say that would be wrong, but if on an appeal from my decision some court had the final say, I do not see but that the rights of the claimant would be protected.

Mr. RAGON. Here is the point I was making. What was the necessity for the change from the department of justice in the Philippines that would bring about such a situation as that?

Secretary DAVIS. I suppose it is the question of friction between the officials.

Mr. RAGON. There should be no question of friction where the governor general has the appointing power and the removing power. The governor general ought to be able to control his men, and doubtless does.

Mr. BEEDY. If I may suggest, Mr. Chairman, I think we are getting into a field where we should properly bring out the facts in executive session and not in an open hearing.

Secretary DAVIS. The reporter may cut out everything in regard to friction in the record.

Mr. RAGON. Now, coming back again to the auditor there, as I remember from reading the hearings in 1919, General McIntyre, and perhaps Secretary Baker, appeared before a committee, at which time Judge Stanner was the chairman, and asked for an increase of this salary. I remember Judge Stanner as chairman made the statement that he did not think it was the proper time, or something to that effect; anyway Congress did not act on it at that time.

Secretary DAVIS. Was that acted on by one of the Houses of Congress and not the other?

General MCINTYRE. It passed the Senate in 1922.

Mr. RAGON. Mr. Secretary, I would like to ask you if the Philippine Legislature, after this Congress here refused to increase the salary, did not give him assistants in all those governmental corporations over there?

Secretary DAVIS. I think so, and then he has this additional salary of \$4,000 from the national bank.

Mr. RAGON. They gave him assistants, though, in each one of those after Congress refused to increase that salary?

Secretary DAVIS. I think so.

Mr. RAGON. Now I will ask you if we did not also refuse to increase his salary in the Philippine Legislature.

Secretary DAVIS. Did that come up? This was before my time.

General MCINTYRE. As to the auditor, they never had authority to increase his salary.

Mr. RAGON. How was it with regard to this \$4,000 additional; was that done by your department, or on its recommendation or with its knowledge?

Secretary DAVIS. That was done by the Philippine Legislature.

General McINTYRE. It was done through the board of control; that is, it was purely done out there. That was done prior to the present auditor's going there. His predecessor received this \$6,000 plus the \$4,000 from the bank. This auditor was under a special contract and he took over the auditorship in order that his salary would not be reduced. He was receiving \$10,000, that is the \$6,000 plus \$4,000.

Mr. RAGON. General, I would like to ask you if that was done with the permission of the War Department here?

General McINTYRE. There was no specific provision but it was done with knowledge; we knew that it was done. I may say that he himself wrote that he did not like that arrangement and preferred to have that salary.

Mr. RAGON. What I am trying to get at is that it is not the purpose on anybody's part to give him this \$4,000 additional if we give him what is provided in this bill.

Secretary DAVIS. No, and I think it would be well to clarify that so as to insure that that should not be done. I should say that it would be a bad system to have the salary paid him indirectly in these two ways and I agree with you that it should be made clear that that is the only salary he gets.

Mr. RAGON. Now, with reference to these two auditors, you give them two additional auditors. Do you think he needs both of these men?

Secretary DAVIS. I think so. The recommendation originally was for three.

Mr. RAGON. If you should leave this in the Department of Justice over there you would do away with that auditing in the department, would you not?

Secretary DAVIS. Do you mean the established change?

Mr. RAGON. Yes.

Secretary DAVIS. Well, I should think you might, yes. I would not say definitely because I do not know the detail work of the auditors, but I imagine they would have plenty of work to do even without that.

The CHAIRMAN. You see they have one assistant auditor in Porto Rico, which is a very much smaller proposition than the Philippines, and in this bill we have only provided for two.

Secretary DAVIS. I think regardless of who shall prosecute the claim, there would be the need for the two auditors—two assistants.

Mr. RAGON. There would be the need for two? Mr. Secretary I believe they get \$6,000 a year. Who do you usually get over there? Do you get people living over there or people from this country for deputy auditors?

Secretary DAVIS. I think they are men who are over there.

General McINTYRE. The present assistant auditor is a very competent Filipino, the man under appointment now. In fact they have one auditor and one assistant.

Mr. HUDSON. Mr. Chairman, may I ask a question? Is it the purpose to report this bill out this morning?

The CHAIRMAN. I wanted to finish with the bill if possible. However, as it is time for the meeting of the House, the committee will now adjourn until Monday morning at 11 o'clock.

(Accordingly, at 12 o'clock and 5 minutes p. m., the committee adjourned until Monday, May 24, 1926, at 11 o'clock a. m.)





**HEARING**  
**BEFORE THE**  
**COMMITTEE ON INSULAR AFFAIRS**  
**HOUSE OF REPRESENTATIVES**

**SIXTY-NINTH CONGRESS**

**SECOND SESSION**

**ON**

**H. R. 16868**

**A BILL TO CLARIFY AND AMEND EXISTING LAWS  
RELATING TO THE POWERS AND DUTIES OF THE  
AUDITOR FOR THE PHILIPPINE ISLANDS  
AND FOR OTHER PURPOSES**

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**FEBRUARY 3, 4, 5, 7, AND 8, 1927**



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**1927**

## COMMITTEE ON INSULAR AFFAIRS

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# THE PHILIPPINE ISLANDS

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Thursday, February 3, 1927.*

The committee met at 10.30 o'clock a. m., Hon. Edgar R. Kiess (chairman) presiding.

The CHAIRMAN. The committee will come to order. I am glad to see such good attendance.

(The committee then proceeded to the consideration of H. R. 16868, which is as follows:)

[H. R. 16868, Sixty-ninth Congress, second session]

A BILL To clarify and amend existing laws relating to the powers and duties of the auditors for the Philippine Islands, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That sections 24, 26, and 29 of the act entitled "An act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands and to provide a more autonomous government for those islands," approved August 29, 1916, as amended, are amended to read as follows:

"Sec. 24. That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts and claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds of property pertaining to or held in trust by the government or the provinces or municipalities thereof. He shall perform a like duty in respect to all government branches, and all corporations of which the government, or any province or municipality thereof, owns a majority of the capital stock. He shall keep the general accounts of the government and preserve the vouchers pertaining thereto.

"It shall be the duty of the auditor to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant.

"There shall be two assistant auditors appointed in the same manner as the auditor, one of whom shall be experienced in the examination, supervision, and liquidation of banking institutions. The assistant auditors shall sign such official papers as the auditor may designate and perform such other duties as the auditor may prescribe, and in case of the death, resignation, sickness, or other absence of the auditor from his office, from any cause the Governor General shall designate one of the assistant auditors, who shall have charge of such office. In case of the absence from duty, from any cause, of the auditor and both of the assistant auditors, the Governor General may designate an assistant, who shall have charge of the office.

"The administrative jurisdiction of the auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto shall be exclusive. With the approval of the Governor General he shall, from time to time, make and promulgate general or special rules and regulations not inconsistent with law covering the method of accounting for public funds and property, and funds and property held in trust by the government or any of its branches, and may examine and report to the Governor General when so requested by him as to accounting methods, receipts, and expenditures of funds of Provinces and municipalities, as well as of all corporations in which the government, or any

Province or municipality thereof, shall own an interest: *Provided*, That any officer accountable for public funds or property may require such additional reports or returns from his subordinates or others as he may deem necessary for his own information and protection.

"The decision of the auditor shall be final and conclusive upon the executive branches of the government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned within one year, in the manner hereinafter prescribed.

"The certificates of the auditor shall be the authority of the treasurer of the Philippine government to make such payment as therein stated.

"The auditor shall, except as herein provided, have like authority as that conferred by law upon the General Accounting Office, and is authorized to communicate directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

"As soon after the close of each fiscal year as the accounts of said year may be examined and adjusted the auditor shall submit to the Governor General and the Secretary of War an annual report of the fiscal concerns of the government, showing the receipts and disbursements of the various departments and bureaus of the government and of the various provinces and municipalities and of all corporations of which the government, or any province or municipality thereof, holds a majority of the capital stock, and make such other reports as may be required of him by the Governor General or the Secretary of War.

"In the execution of their duties the auditor and the assistant auditors are authorized to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of these provisions, may issue subpoenas and enforce the attendance of witnesses, as now provided by law.

"The office of the auditor shall be under the general supervision of the Governor General and shall consist of the auditor, the two assistant auditors above provided, and such necessary assistants as may be prescribed by law.

"Subject to the supervision of the Governor General, the auditor shall have the same jurisdiction and authority over all banking institutions in the Philippine Islands as are now or may be hereafter conferred on the Comptroller of the Currency in the organization, examination, supervision, and liquidation of national banks in the United States.

"Sec. 26. That the supreme court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by law. The municipal courts of said islands shall possess and exercise jurisdiction as now provided by law, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate of the United States. The judges of the court of first instance shall be appointed by the Governor General, by and with the advice and consent of the Philippine Senate: *Provided*, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by act of Congress. That in all cases pending under the operation of existing laws, both criminal and civil, the jurisdiction shall continue until final judgment and determination: *Provided further*, That subject to the provisions of this act, the government of the Philippine Islands may be sued upon any moneyed claim involving liability arising from contract, express or implied, which could serve as a basis of civil action between private parties, and any liability arising out of the erroneous collection of taxes or customs which shall be in lieu of the present procedure of suits against the collectors.

"Any person desiring to avail himself of the privileges herein conferred must show that he has presented his claim to the insular auditor not less than six months before the commencement of such action. No suit shall be instituted on matters arising prior to the passage of this act, and no cause of action shall be cognizable by the court unless suit is instituted within three years after the claim first accrues, but nothing herein contained shall be construed as effecting claims now pending against collectors for refund of customs or taxes.

"Original actions brought pursuant to the authority herein conferred shall be instituted in the court of first instance of the city of Manila, and such action shall be governed by the same rules of procedure, including set-off or counterclaim, both original and appellate, as though the litigants were private parties. In event of judgment against the government for the Philippine Islands interest at not exceeding 6 per centum per annum from the date the cause of action accrued may be allowed in the discretion of the court.



"Process on actions brought against the government of the Philippine Islands pursuant to the authority of this act shall be served upon the insular auditor, and it shall be the duty of the auditor to assist the attorney general of the Philippine Islands in making such defense, general or special, as may be necessary to properly protect the public interest.

"No execution shall issue upon any judgment rendered by any court against the government of the Philippine Islands under the provisions of this act, but a copy of the judgment, duly certified by the clerk of the court in which the judgment is rendered, shall be transmitted by such clerk to the auditor within five days after the decision becomes final.

"No such judgment shall be paid unless there is an existing appropriation out of which such claim might have been paid had it been allowed by the auditor and as to which the determination of the auditor shall be final and conclusive, until it shall have been reported by the Governor General to the Philippine Legislature and a specific appropriation to pay such shall have been made.

"SEC. 29. That from and after the passage of this act all taxes levied, collected, and paid in accordance with law, upon articles, goods, wares, or merchandise imported into the United States from the Philippine Islands shall, instead of accruing intact to the general government of the Philippine Islands, be held in the Treasury of the United States as a special fund.

"There are hereby authorized to be appropriated from time to time, for expenditure by the Secretary of War, such sums as may be required from said special fund for the salaries of the officials of the Philippine government appointed by the President and for the administration and promotion of public health, sanitation, education, and general welfare of the Philippine Islands and for the employment of civilian assistants to the Governor General of the Philippine Islands; but such appropriations shall not make available for expenditure in any fiscal year an aggregate amount in excess of the total collections of such taxes during the fiscal year two years prior to that for which such appropriations are made available. The annual salaries of the following-named officials appointed by the President and so to be paid shall be: The Governor General, \$25,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of the Philippines, with the furniture and effects therein, free of rental; vice governor, \$15,000; chief justice of the supreme court, \$12,000; associate justices of the supreme court, \$10,000 each; auditor, \$10,000; one assistant auditor, \$7,500; one assistant auditor, \$6,000: *Provided, however,* That no officer whose salary is so paid hereunder from funds appropriated by Congress shall receive either from the treasury of the Philippine Islands or from any other source whatever any additional salary unless specifically provided by law.

"Except as in this act otherwise provided, the salaries of all the officials of the Philippines not appointed by the President, including deputies, assistants, and other employees, shall be such and be so paid out of the revenues of the Philippines as shall from time to time be determined by the Philippine Legislature. All expenses of the offices of all the various officials of the Philippines, including their traveling and subsistence expenses on official business, shall also be paid out of the revenues of the Philippines; and if the legislature shall fail to make an appropriation for such salaries and expenses, they shall be paid out of said revenues without the necessity of further appropriations therefor."

SEC. 2. All laws and parts of laws inconsistent herewith are hereby repealed.

The CHAIRMAN. Before we call on the Secretary of War, who came at my request to appear before the committee, I think it might be well for me, as chairman, to make a brief statement and explain what we are trying to do in the proposed legislation.

The members of the committee will remember that the question of clarifying the duties of the auditor was discussed fully last spring before Congress adjourned. We did report H. R. 11617 on June 3, and it is now on the calendar. Then Congress adjourned, and a lot of things have happened since that time. Copies of bill H. R. 11617 were sent over to the Philippine Islands, and I think probably a number of you received a criticism by Mr. Fisher, who was formerly an associate justice of the supreme court in the Philippine Islands and is now an attorney in Manila.

To-day we are considering H. R. 16868, which I introduced on February 1, after a number of conferences and eliminating certain controversial matters. I think I am safe in saying that the bill that we are to consider to-day meets with the full approval of the War Department. The Secretary of War is here to-day to speak for it.

There is one thing I think the committee should know, that this is not a radical revision of the Jones law. The Jones law, I think, has 33 sections. We have only amended three sections of that law. The other sections are intact.

In section 24, which deals with the powers of the auditor, we have made comparatively few changes. We have only tried to clarify his duties. If you should compare the bill with the Jones's law, as I have, you will see few changes. One of the major changes is that we have given the auditor two assistant auditors instead of one; and this additional assistant is to be experienced in the examination, supervision, and liquidation of banking institutions. The Governor General thinks this is very important; and I don't know of anyone who has seriously objected to it.

Section 26, which we have amended, is merely adding to the present jurisdiction of the court of first instance the jurisdiction of a court of claims with certain restrictions. The Philippine Legislature passed a bill creating a court of claims, but the Governor General vetoed it on the ground that he considered the legislature lacked authority under the Jones's Act to enact such legislation. We felt that as long as we were amending the organic act that here was a chance to give them what they themselves had tried to enact. So, beginning with that section where we have the present law and going down to "Provided further" on page 6, where we put in the provisions for the additional jurisdiction on the court of first instance, there is no change. I don't think there is any serious objection by anyone to the conferring of this additional jurisdiction on the Philippine courts.

In section 29 we did two things. We increased the salaries of the officials, which, at least the older members of the committee know, has been agitated for at least 10 or 15 years. Back in the Wilson administration, Secretary Baker strongly recommended it. General McIntyre has always insisted that the salaries were too low. In fact, the Jones Act reduced the salaries all along the line.

The other new feature—and that is one of the important provisions of the bill—is that we provide that the fund which has heretofore been paid into the Philippine treasury shall be placed in a special fund, a Philippine fund, in the Treasury of the United States, and that therefrom appropriations are to be made by Congress for the use and benefit of the Philippines. In other words, we are not taking any money away from them nor are we increasing salaries to be paid from taxes paid by the Philippines. This money belongs to the American people as taxes paid by them. We are reserving the right of Congress to appropriate it. We provide that out of this fund the salaries of the 14 men appointed by the President of the United States shall be paid. There might be a criticism, of course, if we raised the salaries of the Philippine officials and then called on the Philippine Legislature to find the money, appropriate the money to pay the salaries. That objection can not be raised in this case, because these men are to be paid from the United States Treasury, which, I think, personally, is a very good plan and is the same plan,

if you remember, that we adopted in the Virgin Islands. We provided that the men whom the President appointed should be paid from the United States Treasury.

Mr. KNUTSON. The Virgin Islands haven't any treasury to pay anything from.

The CHAIRMAN. That is true.

Mr. DALLINGER. Who pays the salaries of these other men?

The CHAIRMAN. They are paid by the Philippine Legislature.

Mr. DALLINGER. Are their salaries fixed by the Philippine Legislature?

The CHAIRMAN. Yes, the Philippine Legislature fixes the salaries of all officers except those named in the Jones Act, which we fix.

Mr. DALLINGER. This bill simply provides that we shall determine how the money that we put in shall be spent?

The CHAIRMAN. Not only for these salaries, but for any other purposes to the extent of the taxes paid by American consumers on the Philippine products. You might as well argue that the English Parliament has a vested right to say how the duties paid by American consumers on imports from England are spent as to argue that the Philippine Legislature has a vested right to determine how this money shall be spent.

Mr. Secretary, it is very good of you to come up here and give the committee your views. The Secretary of War requires no introduction to the committee.

#### STATEMENT OF HON. DWIGHT F. DAVIS, SECRETARY OF WAR

Secretary DAVIS. Mr. Chairman and gentlemen: I have not prepared a formal statement on the bill, but I am very glad to give you my general idea very briefly along informal lines.

Since the last hearing on the part of the committee, and since the adjournment of the Congress, there was a very important decision in the Supreme Court, as you remember, in the *Ynchausti* case. That decision, I think, went fairly far in clarifying the ideas of every one who was interested in the subject as regards the powers and duties of the auditor in the Philippines. That decision made unnecessary some of the provisions that had been discussed of this bill. As I see it, we simply carry out the further clarification of the powers of the auditor; and the bill is in harmony with the decision of the Supreme Court.

Your chairman has outlined these few changes that are made in the bill. I think there is another important thing that has been clarified in this bill that he did not mention, however, as regards the auditor; and that is that it is made very clear here that the auditor acts under the supervision of the Governor General—under the old bill there was a conflict between those two officials as regards the terms in which their powers were set forth. All the way through this bill it provides that “with the approval of the Governor General” or “under the general supervision of the Governor General” he shall do such and such things. I think that is a very wise provision in order to eliminate the possibility of friction there.

An important feature of the first part of the bill is this provision for an extra assistant auditor. That has been urged for some time by the Governor General, by the auditor, and by some business

interests in the Philippines. They seem anxious to have an expert bank examiner, who shall be responsible for the examination of the various banks and corporations in the Philippines.

The bill also provided originally for the auditing of the accounts of corporations in which the Government had a majority interest, as I remember it.

The CHAIRMAN. Yes.

Secretary DAVIS. And this bill now provides for audit of any corporation in which the Government has an interest.

The CHAIRMAN. The auditor may examine any corporation in which the Government has an interest.

Secretary DAVIS. At the request of the Governor General, any corporation in which the Government has an interest.

It seems to me that the principal thing accomplished by this bill is the clarification of the various points which have been brought up in regard to the power of the auditor. In this bill there is also provision for this assistant auditor to be responsible for bank examinations.

As regards the Court of Claims, I think everybody is in favor of establishing a court of claims. A legal question has arisen in the Philippines as to what body has power to establish such a court. The Philippine Legislature have passed a bill on two or three different occasions, establishing a court of claims; but the Governor General has vetoed the bill, feeling that the authority for establishing such a court rests only with the Congress. This bill practically follows the bill which has been passed by the Philippine Legislature in the establishment of this court; and I think there can be no objection from that standpoint; and it also meets the objection of the Governor General that the Philippine Legislature does not have legal authority to pass such a bill, inasmuch as it would be passed by the Congress.

So, as I understand, the principal change from the bill as passed by the Philippine Legislature provides for a statute of limitations, in other words, so that a claim can not be brought up against the government unless suit is instituted within three years. That would seem to be a wise precaution in the interest of the Philippine Government.

Mr. UNDERHILL. Before you leave that, Mr. Secretary: Does this follow practically the same provisions which are set forth in the establishment of our Court of Claims here in this country or does it extend beyond the jurisdiction now held by our courts?

Secretary DAVIS. It does not follow entirely the provisions here. I think General Hull might give you the legal aspect better than I could, if you will let him do it. But it follows in general. It is an adaptation of that principle to the things in the Philippine Islands. It follows the bill as passed by the Philippine Legislature.

Mr. UNDERHILL. If the general is going to be heard later on—

Secretary DAVIS. I think he could probably answer that legal question better than I could.

The CHAIRMAN. I might tell the committee that General Hull, the Judge Advocate General, is here, and General McIntyre; and they will be at the service of the committee to answer questions which the Secretary of War might not personally be familiar with.

Secretary DAVIS. The other provision of the bill which is of importance is section 29. That is the one providing that the taxes collected upon goods imported into the United States from the Philippine Islands shall be held in a special fund in the Treasury of the United States, to be appropriated by the Congress of the United States. As you know, several years ago the Congress provided that these taxes collected on Philippine imports should be turned back to be appropriated by the Philippine legislature on the theory, as I understand it, that at that time the revenues of the Philippine Government were rather insufficient, and this fund was turned back to them as an aid to the revenues of the Philippines to carry on the government. That situation does not exist at the present time, in that the Philippine finances are really in very good shape.

Mr. WILLIAMS. How much does that fund amount to?

Secretary DAVIS. For the last five years it has averaged something a little over \$700,000. But since that time the tobacco taxes have been decreased, and probably at the present time I suppose it would be half a million dollars. I think it has run about \$385,000 for the first nine months of the year or roughly \$50,000.

Mr. BRIGHAM. You mean that much per annum?

Secretary DAVIS. Yes.

Now, as I say, the necessity for turning that back to the Philippine Islands has passed. Their finances are in pretty good shape. It seems only fair that the Congress of the United States should have the right to say how money which belongs to the United States should be expended. This provision for a separate fund does not in any sense turn money over to the Governor General or the Secretary of War, but provides that the money would be appropriated by Congress in just the same way that all other appropriations are made. It does give an opportunity, however, to pay the salaries of American officials out of this fund, and meets the point which the chairman made, that there might be objection to raising the salaries and then requiring the Philippine Legislature to pay for them.

I think that the salaries should be raised. That point has come up ever since as far back as 1916 and before. They were reduced in 1916. The department was opposed to that at the time, and has consistently recommended since that time that these salaries be raised. I think it is very important in a place like the Philippine Islands that we should get the best possible men that we can as Governor General and auditor and judges, etc., and that they should be paid a reasonable salary. The salaries at the present time, in my opinion, are too small.

The CHAIRMAN. Do you approve of the salaries as fixed in this bill?

Secretary DAVIS. I think those are just about the right amounts.

This provision for a separate fund will meet one objection which has been made to the present conditions in the Philippines. I would like to take just a moment to elaborate that point a little bit, because it is either ignorantly or purposely misrepresented in some cases. The War Department has two separate and distinct functions, branches, if you choose to call them that. One is the military function, the Army, which come to the Secretary of War directly through military channels with their head in the General Staff, the

Chief of Staff. Those are the purely military functions of the department. But there are other functions which are entirely separate and distinct from the military functions, and have nothing to do with them and do not follow military channels, do not come to the Secretary through the Chief of Staff or any military official. Take, for example, the Inland Waterways Corporation, which is a separate corporation, the stock of which is owned by the Government, and which has an entirely separate corporate existence. All matters relating to the Inland Waterways Corporation come to the Secretary of War direct from the officer in charge of the corporation and not through military channels. The same thing is true of things like the Panama Canal, which come direct from the Governor of the Panama Canal to the Secretary of War. They don't go through military channels at all. The same thing is true of the Federal Power Commission, for example, and the various other commissions on which the Secretary is represented, like the Forest Reserves and commissions of that sort. There are also several railroads and steamship lines and various matters of that kind, those propositions which come direct to the Secretary of War through channels that are entirely separate and distinct from military channels.

Now, that is true of these matters relating to the Philippines and Porto Rico. The Governor General, while he happens to be a retired Army officer, is Governor General not as an officer of the Army, but as a civilian. He is not there as an Army officer, and the Army has no more control over him than it has over any retired officer, that is, only along military lines. He is there as a civilian.

The Bureau of Insular Affairs does not report to the Secretary of War through military channels and through the General Staff; it comes direct to the Secretary as a civilian. There is no connection whatsoever between the military functions of the War Department and those relating to the Philippines and Porto Rico. No one has ever brought up the point that the government of Porto Rico is under military domination, because, of course, it is not. Now, the government of Porto Rico is under exactly the same system of supervision as the government of the Philippines. Any statement that the Philippines are under military control is either made in direct ignorance or is a purposeful misrepresentation of the true facts, for personal or selfish reasons. I want to make that very clear to the committee—that the question of supervision of the Philippines and Porto Rico is a civilian nonmilitary function of the department.

Mr. RAGON. But all the advisers there are Army officers, are they not?

Secretary DAVIS. No. I want to bring out that point. You have seen a great deal in newspapers about the so-called cavalry government. Certain advisory assistants there are Army officers. The Governor General has been anxious for years and has frequently recommended that he be given some authority or some money by which civilian advisers from different departments of the Government could be assigned to him as his assistants. For instance, he would like a legal adviser from the Department of Justice, a commercial adviser from the Department of Commerce, an agricultural adviser from the Department of Agriculture. He has been very anxious to have that, and I have taken it up with the different

departments on several occasions; but they have no authority to assign those advisers, and no money with which to pay them.

Failing in this, and having no one, no advisers, that could be provided for by law, two or three Army officers have been detailed, assigned, to the Governor General as his assistants. This has been done for the past, I suppose, 15 or 20 years, ever since the government has been established. These men are making a considerable sacrifice, because they are in a way taken out of their profession, their careers; and it does not help them in their future career in the Army; but they are, of course, glad to assist the Governor General in any way. But those men are there as officers of the Army. I think this answers that point.

Mr. RAGON. Well, they are officers of the Army; they are Army men?

Secretary DAVIS. They are Army men, but they are there simply because there isn't any authority to provide for civilian advisers. The Governor General has been very anxious for years to have civilian advisers instead of Army officers.

Mr. RAGON. Does this bill provide relief for that and provide for civilian advisers?

Secretary DAVIS. Absolutely.

Mr. RAGON. Isn't it just as important to have people there to study agriculture as it is to have those who study the importance of war activities?

Secretary DAVIS. I think you are absolutely right, sir; and I agree with you absolutely. Now, if I understand it, that is one of the very things that this bill would permit, that this fund is going to be used, in the discretion of Congress, for that very purpose. I think you are quite right. That is one of the very things that this bill would accomplish. But I am very glad that you brought up that point.

Mr. DALLINGER. Do you think, Mr. Secretary, that this language of this act of section 29, page 8, is authority enough for the appointment if an appropriation is made by the Appropriations Committee?

Secretary DAVIS. This line 11 and from there on?

Mr. DALLINGER. Yes, lines 18 and 19, "and for the employment of civilian assistants to the Governor General." Do you think that language is sufficient authority?

Secretary DAVIS. That is a technical question that you are more capable of answering than I am. The purpose of it is to make it an authorization for that purpose.

Mr. KNUTSON. The agricultural, commercial, and other assistants would be civilian.

Mr. DALLINGER. What I mean is: Would you have to be more specific and provide for a certain number by specified names?

Mr. KNUTSON. It looks as though there would be no limit to the number that they could employ under this section.

Mr. DALLINGER. Then your idea is that the Appropriations Committee would appropriate it specifically?

Mr. KNUTSON. They would have to show the members of the committee the necessity for it.

Secretary DAVIS. You see, this is a special fund which is not under the control of any individual without reference to Congress. It is a fund which would be appropriated by Congress.

Mr. BACON. This is an authorization bill?

Secretary DAVIS. This is an authorization bill. It is like other authorization bills which must be passed first.

Mr. HUDSON. "There are hereby authorized to be appropriated from time to time"—that is an authorization.

Mr. DALLINGER. There is no reason why such an appropriation could not be put in the deficiency act.

Mr. KNUTSON. No, no reason whatever.

Secretary DAVIS. As I understand it, this is in the usual form of an authorization for accomplishing the purpose. I think it is decidedly feasible to have these revenues put in the special fund, because that earmarks them for the benefit of the Philippine Islands, which is the purpose that they are for.

Mr. HUDSON. One question, if I am not interrupting.

Secretary DAVIS. Not a bit.

Mr. HUDSON. In case of a surplus accruing in special funds, it can not be diverted except by vote of Congress, and it would naturally be understood that it would be held for such things in the Philippine Islands, whether it is to pay salaries or some other development?

Secretary DAVIS. Yes.

Mr. HUDSON. That fund should be held intact for the Philippine Islands.

Secretary DAVIS. That fund is to be entirely under the control of Congress.

General Hull and General McIntyre are here, if you want them. I must go in a few minutes.

Mr. GILBERT. The attitude of this Government toward the Philippine Islands, as expressed by President McKinley, President Roosevelt, President Taft, and President Wilson, was to be ever-enlarging control and result in absolute independence. In your opinion does this bill harmonize with that statement?

Secretary DAVIS. I don't think that there is any conflict with that. It is clarifying the law. I think that the result of the passage of this bill would be a great benefit to the Philippine Islands.

Mr. GILBERT. But do you think it is enlarging the control, as set out in those statements?

Secretary DAVIS. I think it is clarifying the general principles.

Mr. GILBERT. Well, is it clarifying by enlarging or subtracting from their control?

Secretary DAVIS. Well, taking the matter critically, I should say that it would be a decided enlargement for the benefit of the islands.

Mr. GILBERT. I just call your attention to this provision on page 3:

The decision of the auditor shall be final and conclusive upon the executive branches of the Government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned within one year, in the manner hereinafter prescribed.

The CHAIRMAN. What lines are those, Mr. Gilbert?

Mr. GILBERT. Page 3, beginning with line 23 and going over to page 4, two lines.

Secretary DAVIS. You think that that limits the present law? That is exactly copied from the existing law; in fact, it is the same wording.

Mr. GILBERT. My opinion is that this bill increases the powers of the auditor and decreases the power of the people of the Philippine Islands. I want to get your view.



Secretary DAVIS. What you read is exactly the present law, sir, I think, word for word.

Mr. GILBERT. Is it in conformity—is this law, this bill which I have just read, in conformity with the opinion of the Supreme Court as to the powers now of the auditor of the Philippines, the recent opinion handed down in the Supreme Court?

Secretary DAVIS. I understand it is.

Mr. GILBERT. I want to get your opinion.

Secretary DAVIS. That is my opinion. I am not a practicing lawyer, but I think that is true. But it is word for word the present law.

The CHAIRMAN. Now, the Secretary has other things to do, and we will excuse him unless Members desire to ask him questions.

Mr. RAGON. I would like to ask a few questions, if I may. If there are other men here who can answer them, all right.

The CHAIRMAN. Yes.

Mr. RAGON. Following the line of Mr. Gilbert's question: Do you think that the other provisions of this bill would not have a tendency to diminish the power of the Philippine Government over there?

Secretary DAVIS. Which particularly provision have you in mind?

Mr. RAGON. The revenue feature.

Secretary DAVIS. The revenue provision, which gives to the Congress the right and power to spend the money belonging to the American Government? It seems to me that money which is collected from American citizens and belongs to the American Government, I think Congress should have that right.

Mr. RAGON. That is true, but now we are speaking about where we are spending this money. We are spending it in the Philippines, which are administered by a government composed of the executive, judicial, and legislative branches. Now, isn't there a tendency in this bill to diminish the powers of the legislative branch over there and increase the powers of the executive? Isn't that the tendency?

Secretary DAVIS. It would increase the powers of the Congress of the United States, I should say.

Mr. RAGON. No. It doesn't increase them. Congress has that power now.

Secretary DAVIS. It gives it back to Congress.

Mr. RAGON. Congress is simply delegated the right to legislate upon this?

Secretary DAVIS. Yes.

Mr. RAGON. Now I am talking about the powers that it will have. What will be the effect on our Government over there?

Secretary DAVIS. I don't see that it changes the executive powers. It is a question whether Congress would delegate that to somebody, but nobody can spend this money except Congress.

Mr. RAGON. We are admitting that Congress has that right. What is the effect of this upon the legislative and executive branches of the American Government in the Philippine Islands?

Secretary DAVIS. I don't think that it adds to the powers of the Governor General. It increases his salary, but it gives authority to Congress to carry out a thing which he has recommended for a great many years and which the people of the Philippine Islands are apparently very anxious to have done—this provision for civilian

advisers instead of the military advisers, but that is not giving power to the Governor General.

Mr. RAGON. This money would be appropriated only on what the Governor General would say over there?

Secretary DAVIS. On what Congress would say.

Mr. RAGON. I know, but we would not act unless the Governor General would say so.

Secretary DAVIS. That is up to Congress.

Mr. HUDSON. Couldn't we take the advice of the Philippine Legislature just as well as of the Governor General?

Mr. RAGON. I am asking the Secretary.

Secretary DAVIS. The recommendation would under this bill come in the usual way, through the department and through the Budget up to Congress. But Congress would have the final say in any case.

Mr. RAGON. What I am driving at is this: The expenditure of this money—we are undertaking over here in the Committee on Appropriations to spend money for the internal government of the Philippine Islands 10,000 miles away. They are doing that now over there. Do you think that this system here would be better than that over there?

Secretary DAVIS. I think that Congress should have the final authority to say how American money should be spent.

Mr. RAGON. Getting back to the other question, do you think we could do it more efficiently over here than they could over there?

Secretary DAVIS. I think you could accomplish things under this bill which would very decidedly make for efficiency of the Philippine government, and which can not be done under the present circumstances.

Mr. RAGON. You think it would be more efficient under the Appropriations Committee to expend it than to have it done over there?

Secretary DAVIS. I think that would give them power to do things under this bill which they have not at the present time. The thing I have in mind is the possibility of sending civilian advisers over there, which I think would not—

Mr. RAGON. I will get to that in a minute. I will get to it right now. How many of these civilian employees do you want over there?

Secretary DAVIS. As I remember it, the Governor General has recommended seven. I am not absolutely certain of the number, but it is less than eight; eight or less.

Mr. RAGON. How much salary will that take up? What is your estimate?

Secretary DAVIS. I think it is less than \$150,000. I thought it was more than \$80,000. Do you remember that, General McIntyre?

General McINTYRE. Well, about \$155,000 is the appropriation.

Mr. RAGON. I am speaking of the civilian employees.

General McINTYRE. Civilian advisers, yes; about \$80,000 is the Governor General's estimate in advance.

Mr. RAGON. Can you tell us what those advisers would be?

Secretary DAVIS. If you will allow me to take them from this brief that I have here. It says that there is to be a staff in the office of the Governor General consisting of an adviser on banking and finance, legal matters, international relations, trade and commerce,

science and research, public health and sanitation, and inspection and supervision. That is seven, I should say. It is not punctuated, but I take it that public health and sanitation go together as one man, and inspection and supervision as another. That would make eight. The total number would be eight.

Mr. RAGON. Haven't you got an agricultural man?

Secretary DAVIS. Yes; he would come under "science and research."

Assuming that the salaries of this personnel, traveling expenses for themselves and families from the United States and return, and their local traveling expenses are paid from the fund, it is estimated that the total annual expenditure would be \$80,000.

Mr. RAGON. \$80,000 for all those?

Secretary DAVIS. Yes.

Mr. RAGON. Now, how much do you give there for salary increases?

The CHAIRMAN. If you will permit, I will answer this.

Mr. RAGON. Certainly.

The CHAIRMAN. The salaries at the present time are \$109,000, including that extra \$4,000 that goes to the auditor. That is what we are paying now. Under this bill we would give them one more man. There would be 14 appointed by the President instead of 13. Their salaries would amount to \$155,500. That is increases of \$46,500, and one additional man.

Mr. RAGON. Now, what else do you propose to spend this money for?

Secretary DAVIS. I think I see what you are getting at.

Mr. RAGON. What I am getting at is, I want to find out what this money is to be expended for.

Secretary DAVIS. I would suggest—I have given to your chairman a brief which has been drawn up in explanation of this whole matter, in which I have gone into it very fully. I believe that would give you just the answers to the questions you have in mind.

The CHAIRMAN. It will answer all your questions.

Secretary DAVIS. I think it would be well to put that in the record. I think every member of the committee would like to have it.

(The brief referred to is as follows:)

BRIEF IN SUPPORT OF HOUSE BILL NO. 11490, PROVIDING THAT INTERNAL REVENUE COLLECTED IN THE UNITED STATES ON PHILIPPINE PRODUCTS SOLD THEREIN SHALL CONSTITUTE A SPECIAL PHILIPPINE FUND IN THE UNITED STATES TREASURY TO BE EXPENDED FOR THE ADMINISTRATION AND PROMOTION OF PUBLIC HEALTH, SANITATION, EDUCATION, AND GENERAL WELFARE IN THE PHILIPPINES

#### SUMMARY

1. *The origin and amount of the so-called internal revenue fund.*—Section 301, Title III, tariff act of 1922, provides that all internal revenue collected in the United States on Philippine products sold therein shall not be covered into the United States Treasury, but be transferred to the insular treasury. This has been, in substance, the law since 1902. The average amount of this fund for the past five years is \$900,000. Under the revised tax law the amount is estimated at \$600,000 annually.

2. *The nature of the internal revenue fund.*—It consists of taxes paid by Americans on Philippine products sold in the United States. Not a result of any taxation on Filipinos. An unequivocal donation of the United States money to the Philippine treasury.

3. *The fund originally under American control.*—The control of the fund was formerly in the Philippine Commission appointed by the President, which was directly responsible through him to Congress for the effective and creditable administration of Philippine affairs. As a result of subsequent legislation this control passed to the local legislature.

4. *Restoration to American control of the fund does not deprive the Filipino people of it.*—The proposed bill continues the original purposes for which the fund was established—"for the government and benefit of said islands." The control and management only is modified.

5. *No curtailment of Filipino autonomy.*—The Philippine Legislature is left undisturbed in its existing power to appropriate money derived from Philippine taxation. Complete local autonomy in this regard does not require recognizing the right to appropriate money belonging to the United States.

6. *Principle upon which the bill is based.*—That money which results from taxation of Americans in the United States belongs to the United States Government and should be expended by that Government in such a way as will best accomplish the duties and responsibilities which have been assumed with respect to the Philippine Islands.

7. *American participation in the local government essential.*—The preservation of a reasonable American participation in the local government, especially in certain branches of the executive, in educational, scientific, and technical positions, and making this participation effective is necessary for many years, and such participation will result in a better exercise of the existing autonomy and in a more speedy development of conditions which will warrant the granting of such further autonomy as Congress may see fit to extend.

8. *Methods used to eliminate or restrict American participation in the local government.*—Reduction of salaries and the creation of inducements to retire. Two conspicuous examples: Salary standardization law and the Osemeña retirement law, both passed in 1916. Only 1.5 per cent of the total government personnel is American. If the United States is to remain responsible, this percentage can not be further decreased or restricted. The fund in question is needed to make it effective and influential.

9. *Persistence in the elimination and restriction.*—Provisions in recent appropriation acts and in certain proposed legislation evidence a continuance of a strong and persistent movement for the elimination and restriction of Americans.

10. *Concrete instances of attempts at elimination.*—The appropriations acts of 1924, 1925, and 1926, by failing to appropriate the necessary additional salaries for American positions would have forced the occupants to retire. This effect was avoided by the executive veto. Prohibitions on activities calculated to supplement inadequate salaries has also resulted in the elimination of competent Americans.

11. *Curtailment of the activities of the Governor General.*—By restricting the appropriation for the operation, maintenance and repair of the coast-guard cutter *Apo*, the inspection and supervision carried on by the Governor General was imperiled.

12. *Reasons for the Filipino opposition to American participation.*—Due to an impression created in the minds of the Filipinos that complete local autonomy or independence was forthcoming. Support of the elimination of the American personnel operates as a means of preserving local political prestige. Difficult for persons actively engaged in local politics to assume any other attitude towards the preservation or extension of American participation. This participation and its adequate support should not be imperiled or delayed by local political ambitions or needs. The welfare of the entire Filipino people is paramount to the welfare of any political party or any political movement. The United States Government is primarily interested in the former and should not hesitate to use its own funds in furtherance of this realization.

13. *Enumeration of specific objects to be accomplished*—

I. Strengthening the position of the Chief Executive. The recommendations of ex-President Harding, the Wood-Forbes report, and President Coolidge in favor of this.

(1) Peculiar position of the Executive in the Philippines. The Governor General has the normal executive functions of preserving peace and order and seeing that the laws are faithfully executed. In addition, he has the function of supervision and control over all executive activities. He is also responsible for the care of the very great investments which the insular government has in various business enterprises.

- (2) A staff of advisers and assistants in the following fields:
  - (a) Banking and finance.
  - (b) Law—An adviser on legal matters.
  - (c) Foreign relations—An adviser on matters involving foreign affairs.
  - (d) Trade and commerce, especially the international aspects thereof.
  - (e) Science and research affecting the economic development of the Philippines in the field of agriculture and natural resources.
  - (f) Public health and sanitation.
  - (g) Inspection and supervision.
- II. The Philippines as a center of American influence in the Far East.
- III. Financial support by the United States Government of presidential appointees in the islands.
- IV. Promotion of education.
  - (1) Local support for educational leadership denied.
  - (2) Help for the English-speaking program.
- V. Special school for American children.
- VI. Agricultural experiment stations and agricultural research.
- VII. The bureau of science.
- VIII. Investigation into the cause and cure of leprosy.

*Estimated annual expenditure to accomplish the objectives herein set forth*

Staff in the office of the Governor General, consisting of an adviser on banking and finance, legal matters, international relations, trade and commerce, science and research, public health and sanitation and inspection and supervision. The total number would be 8. Assuming that the salaries of this personnel, traveling expenses for themselves and families from the United States and return, and their local traveling expenses are paid from the fund, it is estimated that the total annual expenditure would be.....		\$80, 000
A travel fund to be used for the promotion of interchange of visits of diplomatic, consular representatives in the Far East and similar visits by American officials of the Philippine government; also for interchange of visits of representatives of other governments in the Far East.....		5, 000
Salaries and travel allowances of Presidential appointees. This list comprises the Governor General, vice governor, auditor and deputy auditor, and members of the supreme court. Their salaries are now fixed by the organic act. Instead of paying these salaries indirectly from the insular treasury on appropriations by the local legislature, they should be paid directly out of the internal revenue fund. The total amount at the rate now being fixed is \$105,000. The War Department, however, has for a number of years recommended the restoration of these salaries to the amount fixed prior to the organic act. If such restoration is made, the total amount would be \$154,000. To this should be added \$6,000 to cover travel expenses of the American personnel. This would give a total of.....		160, 000
Educational facilities for American children. In order to secure adequate grounds, building, and equipment an initial outlay of \$200,000 would be necessary. The annual operation of the school would be...		65, 000
For the promotion of educational research, experimentation and administration and to develop an adequate staff in the central office of the bureau of education, for supplementing existing salaries, new salaries, and travel expenses.....		50, 000
For the promotion of the teaching of English. This is to be done by supplementing certain existing salaries provided for American teachers, increasing the number to be employed, especially for the persons to work in the normal schools where the Filipino teachers are being trained, to provide better living conditions for teachers in the Provinces, and to give additional travel allowances between the United States and the Philippines.....		75, 000
To develop agricultural research and experimentation at the College of Agriculture, Los Baños. This involves the establishment of an agricultural experiment station on the same lines as similar stations established in American universities with the aid of the Federal Government.....		65, 000

Promotion of research in the bureau of science. This involves the providing of funds to supplement existing salaries, new salaries, and travel allowances for specialists in certain fields of scientific investigation. It includes also the study of the problem of serums and vaccines with the view of thoroughly standardizing their manufacture. It also involves the promotion of fisheries.....	\$50, 000
To promote research and experimentation in the field of leprosy treatment. A few experts working independently of appointment from the insular government would be provided especially to study not only treatment, but the epidemiology of leprosy.....	30, 000
Contingent fund.....	10, 000
Total.....	590, 000

#### ORIGIN AND AMOUNT OF THE SO-CALLED INTERNAL-REVENUE FUND

All internal-revenue taxes collected on Philippine products, principally cigars and cigarettes imported into the United States, are covered into the insular treasury and are subject to appropriations by the Philippine Legislature. Over a period of five years, the average annual revenue from this source was approximately \$900,000. Under the present scale of the internal-revenue duties, it is estimated that it will amount to approximately \$600,000 annually.

The origin of this procedure is found in section 4 of the "act temporarily to provide revenue for the Philippine Islands, and for other purposes," enacted March 8, 1902, which section provides:

"That the duties and taxes collected in the Philippine Archipelago in pursuance of this act, and all duties and taxes collected in the United States upon articles coming from the Philippine Archipelago, and upon foreign vessels coming therefrom, shall not be covered into the general fund of the Treasury of the United States, but shall be held as a separate fund and paid into the treasury of the Philippine Islands, to be used and expended for the government and benefit of said islands.

When the 1902 tariff act was passed by Congress, customs duties—as well as internal-revenue taxes—were collected upon Philippine products entering the United States. While these collections belonged, legally, to the United States, the need of the Philippine government for funds—and the primary responsibility of the United States to maintain such government—was met through diverting these particular taxes to the Philippine treasury rather than by making direct appropriations therefor.

Under the Payne tariff act of 1909, Philippine products, in general, were admitted into the United States free of duty, and little further customs collections were made for this account. It was provided by the latter act, therefore—

"That from and after the passage of this act all internal revenues collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury."

Practically identical provisions have been carried in subsequent tariff acts of the United States, the latest provision being found in section 301, Title III, of the tariff act of 1922. It is there provided, among other things:

"That there shall be levied, collected, and paid, in the United States, upon articles, goods, wares, or merchandise coming into the United States from the Philippine Islands a tax equal to the internal-revenue tax imposed in the United States upon like articles, goods, wares, or merchandise of domestic manufacture; such tax to be paid by internal revenue stamp or stamps, to be provided by the Commissioner of Internal Revenue, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe; and such articles, goods, wares, or merchandise shipped from said islands to the United States shall be exempt from the payment of any tax imposed by internal revenue laws of the Philippine Islands.

"That from and after the passage of this act all internal revenue collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury."

#### THE NATURE OF THE INTERNAL REVENUE FUND

From the foregoing, it is obvious that the fund consists of internal-revenue taxes paid by Americans on Philippine products sold in the United States. It is not the result of any taxation of Filipinos, nor is it in any way offset by any

advantage which any Americans receive from the Philippines. It is an unequivocal donation to the Philippine treasury. Against it no balancing account can be set up. This money goes into the insular treasury and is appropriated therefrom by the Philippine legislature in the same manner as funds which arise from Philippine taxation.

#### THE FUND ORIGINALLY UNDER AMERICAN CONTROL

When the original provision was made for the payment of these revenues into the Philippine treasury in 1902, the government of the islands and the appropriations for public service therein were in the hands of an American commission. This commission was appointed by the President and was directly responsible to him and to the Congress for the effective and creditable administration of Philippine affairs. By the organic act of 1916, however, this commission was abolished, and full legislative powers were vested in an elective Philippine Legislature. As a consequence of this action by Congress the control which the United States formerly had of this fund passed to the local legislature. The Governor General, representing the sovereign power of the American Government, has no power of initiating appropriations and has no control over the disposition of public funds once they are covered into the insular treasury, this, notwithstanding that he may be convinced that the welfare of the Filipino people and the good name and repute of the American people, responsible for the islands, absolutely require that certain appropriations be made. Moreover, the financial support essential for the carrying out of the executive functions retained in the hands of the Governor General is dependent, for all practical purposes, upon the action of the local legislature.

#### RESTORATION OF AMERICAN CONTROL OF THE FUND DOES NOT DEPRIVE THE PHILIPPINE PEOPLE OF IT

It is not proposed to deprive the people of the Philippines of this fund. It will still continue, as provided in the original act of March 8, 1902, "to be used and expended for the government and benefit of said islands," or, in the language of this bill, "for the administration and promotion of public health, sanitation, education, and general welfare in the Philippine Islands."

#### NO CURTAILMENT OF FILIPINO AUTONOMY

The bill does not involve a curtailment of the autonomy of the government of the Philippine Islands existing under the organic act, nor in any way interfere with the normal powers of the Philippine legislature with respect to the appropriating of money derived from Philippine taxation. Even granting that for a period of time the Philippine legislature exercised the power of appropriating money donated to it by the United States, the discontinuance of the donation does not affect the substance of the legislative power of appropriating money.

#### PRINCIPLE UPON WHICH BILL IS BASED

The bill is predicated upon the fundamental principle that the money in question results from taxation of Americans in the United States, belongs to the United States Government, and is subject to expenditure by that Government in such way as will best accomplish the duties and responsibilities which have been assumed with respect to the Philippine Islands. It recognizes that the main governmental functions and activities in the Philippines will be carried on by funds appropriated by the Philippine legislature. It also recognizes, however, that the present political status of the Philippines is that of a dependency; that the form of government is not that of a complete, self-governing nation; that the United States participates extensively in this government by exercising the supreme executive authority and general control and supervision over all government activities. The United States is responsible for the maintenance of peace and order in the islands and is answerable internationally for them. It has also assumed the responsibility of training and developing the Filipino people in the difficult art of government. For these reasons, arguments urged against the proposed bill drawn from analogies based on the assumption of a complete self-governing sovereignty are not applicable. The situation is special and peculiar and calls for special and peculiar treatment. The expenditure, therefore, by the United States of its own funds to promote desirable

objects in the Philippine Islands is in no way inconsistent with the existing political rights granted under the present organic act. Moreover, the control and expenditure of such funds is necessary, if the responsibility of the United States is to be adequately discharged and if important developments essential to the welfare of the Filipino people are realized.

#### AMERICAN PARTICIPATION IN LOCAL GOVERNMENT ESSENTIAL

There is no desire to interfere with or unduly delay an orderly development of local autonomy, nor is it intended to reduce the Filipino participation in the government, nor place Americans in positions where there are competent Filipinos. A survey of the situation since 1913 indicates, however, that the elimination of Americans and the restrictions of their activity has been premature and much too rapid for the best interests of the Filipino people. The preservation of a reasonable American participation in the local government, especially in certain branches of the executive, in educational, scientific and technical positions, and the making of this participation more effective and influential will result in the better exercise of the existing autonomy and the more speedy development of conditions which will warrant the granting of such further autonomy as Congress may see fit to extend.

#### METHODS USED TO ELIMINATE OR RESTRICT AMERICAN PARTICIPATION IN THE LOCAL GOVERNMENT

The principal means used to eliminate Americans has been by the reduction of their salaries to an amount for which it is impossible to get them to serve, and by creating inducements for them to retire. Two conspicuous examples of this method are found in act 2668, known as the salary standardization law, and act 2589, known as the Osmena retirement law. Both of these acts were passed in 1916. The latter act by extending a bonus on condition of submitting a resignation within a specified time was especially potent. Both acts, in connection with salaries fixed in subsequent appropriation acts, have resulted in a reduction of the American personnel occupying official positions to a point where it now is but 1.5 per cent of the total government personnel. If the United States is to remain responsible this percentage can not be further decreased or restricted. The effect of the proposed bill, if approved, will be to preserve this percentage and make it more effective in the interest of the Filipino people.

#### PERSISTENCE IN THE ELIMINATION AND RESTRICTION

That this strong and persistent movement for elimination and restriction of influence still continues is evidenced by certain provisions in recent appropriation acts and in certain proposed local legislation. When the standard salary act above mentioned was passed, it became necessary in order to retain competent Americans in the service to provide that the regular salary appropriated for a specified position should be supplemented by an additional salary, and that a special contract authorizing its payment be made with the appointee. These contracts require the approval of the Filipino president of the senate and speaker of the house of representatives. The failure of the legislature to make this supplementary appropriation forced the American either to accept a greatly reduced salary or resign. Moreover, even if the supplementary salary was appropriated, the granting of it required the express approval of the two Filipino officials mentioned.

#### CONCRETE INSTANCES OF ATTEMPTS AT ELIMINATION

Instances of failure to make this supplementary appropriation are found in the appropriation act of 1924, in which the additional salary for the secretary to the Governor General and the cable clerk in the Governor General's office were eliminated. In the 1925 appropriation act, the same failure occurred with respect to the additional salary of the veterinary pathologist in the bureau of agriculture and for the director of the bureau of science. In 1926 this same failure threatened to eliminate the following American personnel occupying important technical positions: Chief of the following divisions—fiber division of the bureau of agriculture; division of investigation, bureau of forestry; division of organic chemistry, bureau of science; mychologist, bureau of science; horticulturist, bureau of agriculture; bacteriologist, bureau of science; architect,



three designing engineers, electrical engineer, contracting engineer, irrigation engineer, all in the bureau of public works. These attempts at elimination were defeated by the exercise of the veto power of the Governor General.

In order to retain certain Americans it has been necessary to permit them to serve in two positions, the salary of neither of which was sufficient. As, for example, the insular auditor has been permitted to be examiner of banks and was given an additional salary. The elimination of the additional salary in the 1924 appropriation act was prevented only by executive veto. Formerly Americans in the Philippine health service were permitted to supplement their salary by engaging in limited private practice. A law was passed forbidding such private practice for all persons drawing a salary of \$2,000 or more per annum. This applied principally to Americans and resulted in the resignation of many of them from the service. Legislation has likewise been proposed forbidding any government employee who receives more than \$2,000 per annum to draw pay for extra service rendered in other bureaus or departments. This proposal, if enacted, would apply primarily to certain Americans, such as the director of the bureau of public works, and the director of the bureau of agriculture, both of whom are induced to remain in the service because they are permitted to supplement their inadequate salary by extra work.

In order to supply the Governor General with additional assistants a per diem of \$5 a day was appropriated for certain officers of the Army who were detailed to his office. In the appropriation bill for 1924 this item was sought to be eliminated. In the same act it was provided that the use of the Governor General's discretionary fund should be restricted to secret service work. This would have been very embarrassing to the Governor General, since he has used this fund to supplement certain inadequate salaries of very desirable and competent men in the government service, and also for the purpose of official entertainments appropriate and necessary for the important position he occupies.

#### CURTAILMENT OF THE ACTIVITIES OF THE GOVERNOR GENERAL

As a further example of the effort to curtail the activity of the chief executive, the appropriation act for 1924 contained a proviso—

“that no appropriation for the bureau of commerce and industry shall be available for the operation, maintenance, and repair of the *S. S. Apo*, except what may be strictly necessary for its preservation.”

The significance of this proviso lies in the fact that the *Apo* is the Coast Guard cutter which has been used by the Governor General for his very frequent and extensive inspection tours throughout the islands. This constant supervision and inspection has done more than any other single factor to keep the government up to reasonable standards of efficiency and to forestall or correct irregularities in government.

#### REASON FOR THE FILIPINO OPPOSITION TO AMERICAN PARTICIPATION

The Filipino desire to eliminate or restrict American participation from the local government is the normal outcome of the general political situation. The language of the preamble of the organic act and the pronouncements by various persons occupying official positions in the United States have created the impression among the Filipinos that the time is ripe for the granting of immediate independence, or, at least, withdrawing all American participation in the local government. From 1913 to 1921 there had taken place, with the acquiescence or concurrence of the representatives of the American Government here, a very rapid Filipinization of the government and a very extensive curtailment of American participation. This has not been for the best permanent interests of the Filipino people as a whole. It has resulted, however, in creating a situation in which it has been generally assumed that American participation and influence was to be rapidly eliminated. This situation has been taken advantage of by those actively engaged in politics and it is to-day a vote-getting proposition to display a keenness for the elimination from the government of Americans, or reducing their salaries, or preventing them from securing increases in salaries which changing conditions make necessary. The political necessity of getting votes as a means of preserving local political prestige is met by working for the elimination of the American. So long as it is politically popular to eliminate the American, it is hardly to be expected that those actively engaged in politics will assume any other attitude than that of hostility toward either the preservation or the extension of American participation, regardless of how beneficial to the larger interests of the country such participation may be.

The most practical way to counteract this political tendency is to provide a reasonable amount of financial support from an independent source. The recommendation for such support is based upon the proposition that so long as the American Government is here and is in such large measure responsible, locally and internationally, for the Philippine Islands, there should be a reasonable amount of participation in the government and that this participation should be effective; or stated, in other terms, the United States Government and its representatives should not be left in positions of responsibility without commensurate power and influence. Furthermore, there are certain things vital to the welfare of the Filipino people as a whole and to the stability of the government which we are attempting to establish that we are entitled to have accomplished, and this accomplishment should not be imperiled or devalued by local political ambitions or needs, by local political rivalries, by an undue emphasis upon the attainment of an immediate political status, or by racial antagonisms. The welfare of the entire Filipino people should be made paramount to the welfare of any political party or any political movement, and the United States Government is primarily interested in the realization of the former and should not hesitate to use its own funds in furtherance of such realization.

#### ENUMERATION OF SPECIFIC OBJECTS TO BE ACCOMPLISHED

In support of the general principles above set forth, the following enumeration of objects sought to be promoted is submitted:

##### I. STRENGTHENING THE POSITION OF THE CHIEF EXECUTIVE

The late President Harding in his reply in 1922 to the Philippine Independence Mission said:

"We have extended your control in government until little remains but the executive, without which we could not assume our responsibility. \* \* \* I would be less candid and fair if I did not tell you that we can assume no responsibility without that authority."

The Wood-Forbes report contained the following recommendations:

"We recommend the present status of the Philippine Islands continue until the people have had time to absorb and thoroughly master the powers already in their hands.

"We recommend that the responsible representative of the United States, the Governor General, have authority commensurate with the responsibility of his position.

"We recommend that under no circumstances should the American Government permit the establishment in the Philippine Islands a situation which would leave the United States in a position of responsibility without authority."

President Coolidge in his message to Congress in December, 1925, said in part:

"From such reports as reach me there are indications that more authority should be given to the Governor General so that he will not be so dependent upon the local legislative body to render effective our authority to set an example of sound administration and good government."

##### PECULIAR POSITION OF THE EXECUTIVE IN THE PHILIPPINES

Under the present organic act and statutes passed pursuant thereto, the Executive in the Philippine Islands occupies a position of peculiar responsibility. He is chargeable with the normal executive functions of preserving peace and good order and seeing that the laws are faithfully executed. In addition, he is charged with the duty of supervision and control of all executive functions exercised directly in his office or through the departments comprising the executive. He is also responsible for the care of the very great investments which the insular government has in various business activities, as, for example, the Manila Railroad Corporation, the Philippine National Bank, the National Development Co., the National Coal Co., and, until the recent sale, the National Cement Co.

In the discharge of these responsibilities he utilizes the assistance of Filipino officials in the executive department and is in large measure guided by their advice and assistance. If, however, he discharges efficiently his constitutional responsibilities of supervision and control, he is entitled to have around him a group of experienced and technical men who will make for him the necessary investigations of facts and the examination of documents and papers which are essential to enable him to pass upon the various matters presented to him for action.

The assertion by certain Filipino leaders that the Governor General is bound to be guided solely by the advice of the department secretaries can not be accepted. It overlooks the fundamental fact that the United States is engaged in directing the affairs of a dependent people and training them in the art of government. To say that the representatives of this Government must draw his assistance and advice solely from the Filipinos is to assert that the teacher must be guided solely by the pupil.

#### A STAFF OF ADVISERS AND ASSISTANTS

The carrying out of the recommendations embodied in the quotations contained in the reply of President Harding, the Wood-Forbes report, and the message of President Coolidge can best be accomplished by surrounding the Governor General with a staff of experienced and competent advisers. The responsibility for making such provision rests primarily upon the home Government rather than upon the local government. For reasons already set forth, there are local political considerations which make it unlikely, or at least difficult, to secure this support out of insular funds. Moreover, in the interests of efficiency and independence, the effective exercise of the executive power should not be left to local support. As a matter of fact, the local legislature has made very little provision for assistance to the Governor General, and the instances cited above show a disposition to restrict whatever assistance there is. The fundamental position taken by the Filipino leaders is that the Governor General should administer his functions through what they designate his "constitutional advisers"—the secretaries of the departments—and that he should accept their advice in matters pertaining to the Executive. In a complete, normal self-governing sovereignty such position might be accepted, but in the government of a dependency, where responsibility, locally and internationally, is assumed by the home Government, the representative of that government in exercising the powers which have been retained is entitled to advice and assistance from a source independent of the local organization. During the term of the present Governor General certain United States Army officers, having previous experience in Philippine matters, have been detailed to assist him. Their knowledge and acquaintance with the situation has enabled them to render valuable service. The principle involved in this sort of arrangement should be extended to include a number of civilian advisers. Considering the scope and variety of problems arising in the office of the Governor General, a staff consisting of experienced and competent men should be provided in the following general fields of activity:

1. *Banking and finance.*—The government interests in the Manila Railroad Co., the Philippine National Bank, the National Development Co., and its subsidiaries require that the Governor General, as custodian of these interests, should pass upon numerous reports and financial statements submitted by the officers of these entities. To exercise sound judgment upon such material he needs assistance.

2. *Law.*—*An adviser on legal matters.*—There are many legal problems arising under the organic act and legislation passed pursuant to it. Many of these involve the sovereign rights of the United States in the islands and the nature and scope of governmental authority delegated in the organic act to the insular government. While a Filipino attorney general is competent to render legal advice on the usual questions arising in administration, it is not deemed advisable to depend upon him when questions of the nature mentioned are involved. At times it is very embarrassing for him to decide against his own people. It has been the practice to consult the Judge Advocate General of the United States Army and the Attorney General of the United States in these matters. The great distance from Washington, however, makes it difficult to get their advice promptly. The Governor General should have in his office a competent and experienced lawyer closely associated with the Department of Justice in Washington.

3. *Foreign relations.*—An adviser on matters involving foreign relations. There are frequently arising questions involving the relations of the United States to other countries, as, for example, the Chinese bookkeeping law, the restrictions on the importation of cattle and various articles of commerce from foreign countries, and the effect of such restrictions on treaty rights of other nations, the immigration of nationals of other countries and the rights of such nationals residing in the Philippine territory. An adviser either from the State Department of Washington or closely associated with that department should be a member of the Governor General's staff.

4. *Trade and commerce.*—An adviser in matters of trade and commerce, especially the international aspects thereof. The trade interests of the United States in the Philippines are very great and affect the rights of both Filipinos and Americans, as, for example, the recent controversy with respect to Philippine mahogany and the discrimination against Philippine vegetable oils. The Governor General is properly expected by the home government to give advice concerning the proper protection of these trade interests.

5. *Science and research.*—Questions of a local nature vitally affecting the economic development of the Philippines arise in the field of agriculture and natural resources. These questions deal with scientific and technical problems involved in certain agricultural commodities, such as hemp, and the development of other products and resources, such as camphor, quinine, sugar, and rubber. There are also extensive mineral resources which need development under competent technical supervision. The Philippine Islands constitute a source of all basic tropical products of which the United States has need. The development and utilization of these products is a matter of vital interest to the material welfare of the Filipino people as well as the people of the United States. A technical adviser acting in close cooperation with the Department of Agriculture, bureau of science, and other bureaus in Washington is needed for the proper guidance of the chief executive here.

6. *Public health and sanitation.*—An adviser in matters of public health and sanitation. The Philippines being a tropical country, the problem of public health and sanitation occupies an unusually important place in the office of the executive. It has been recognized from the beginning that the home government has special concern in these problems. This is evidenced by the fact that officers detailed here from the United States Health Service are in charge of the quarantine service of the islands. The control of cholera, plague, smallpox, and other diseases, especially rife in the tropical countries, results in the frequent presentation of questions of health and sanitation.

7. *Inspection and supervision.*—Special assistance for inspection and supervision. The experience of the past five years abundantly demonstrates that there is no more effective and wholesome method for keeping the municipal, provincial, and central government activities up to standard, for preventing or correcting misconduct in office than frequent and thorough inspection and supervision. A large part of this inspection and supervision during the recent years has been done by the Governor General himself. It has involved much travel throughout the Archipelago and has taken a great deal of the time and energy of the executive. In this important work, the Governor General needs at least two experienced men who will constantly be in the provinces or available for making the numerous special investigations called for by the various complaints submitted to the Governor General's office.

## II. THE PHILIPPINES AS THE CENTER OF AMERICAN EFFORT IN THE FAR EAST

In addition to the foregoing presentation of the needs for strengthening the position of the Governor General with respect to his duties and responsibilities in the administration of the islands, there is a much larger aspect involved in such strengthening. We have here extensive territory and natural resources of enormous value. With respect to the Far East, it occupies a strategic position, not merely with respect to trade and commerce, but for naval and military purposes. We have a population of more than 11,000,000 people and carry the responsibility of administering the islands for the benefit of the people of the islands internationally. The problem here is something more than a Philippine problem; it is a problem of the United States in the Far East. Here is the center of American effort in the Orient and here is the center, not merely of those matters of concern to the Filipino people and our relations with them, but also of those matters of grave concern to the people of the United States in their domestic and foreign affairs. Policies and determinations here affect our interests in the Orient and our relations, not merely with China and Japan, but with England, France, Holland, and other powers having interests in this part of the world.

The real significance of the Philippine post and its problems have not always been adequately appreciated by the home Government. The tendency is to think of the Philippine as involving a local, colonial problem of temporary nature, and soon to be eliminated from our calculations. Unless we propose to withdraw our sovereignty from this territory, we shall for many years to come have a responsibility here which can only be satisfactorily discharged by centralizing at this point representatives of the executive, administrative, and diplomatic wisdom at our command.

## III. FINANCIAL SUPPORT OF PRESIDENTIAL APPOINTEES IN THE ISLANDS

The presidential appointees are the Governor General, the vice governor, auditor, deputy auditor, and nine members of the supreme court. Their salaries are fixed in the organic act. They are paid by appropriations from the insular treasury, but in reality the money for these salaries can be considered as coming indirectly from the United States as the result of the transfer of the internal-revenue fund under discussion. It is believed that the home government should pay the salaries of its own appointees and that the payments be made directly out of the funds in question.

In addition to having these salaries paid directly by the home government the War Department has taken the position for the past six years that the salaries are inadequate. The following reductions were made in these salaries when the organic act in 1926 was passed: Governor General, from \$22,500 to \$18,000; vice governor, from \$15,500 to \$10,000; members of the supreme court, from \$10,000 to \$7,500.

All attempts, however, to raise the salaries to their former amount or to make any increase therein have been strongly opposed by the Resident Commissioners from the Philippines, acting on instructions from their leaders in Manila, the position being taken that Congress should not dispose of the revenues of the Philippine government coming from the taxation of the Filipino people. It should be made clear, however, that it is not a question of disposing of money derived from taxation of the Filipino people, but Congress is merely acting well within its power in disposing of revenues received from the taxation of the American people in making adequate provision for the appointees of the President of the United States. The argument, therefore, based upon this confusion of funds will be removed if the funds actually belonging to the United States are segregated and held for disposition by that Government. Such segregation and disposition would not deprive the Philippine government from the donation it is now enjoying, but it would relieve the Philippine Legislature of any political disadvantage that might accrue to its members in voting for an adequate and considerate treatment of American or Filipino officials appointed by the President. If all the appointees of the President in the Philippine government were given salaries which were recommended by the Department of War, the total amount would be \$154,000. To this should be added \$6,000 annually to constitute a travel fund in defraying expenses incurred in bringing the American appointees and their families from the United States and return.

## IV. PROMOTION OF EDUCATION

From the very beginning, great reliance has been placed upon education as a means of training the Filipino people. It is now more than 25 years since we brought to the islands our American system of universal education with its content of American social and political philosophy. We have relied upon this educational system to supply not merely elementary and advanced education, which are deemed essential for a stable social organization, but also for the development of a common language. The importance of education was regarded as so great that its administration has been retained in the hands of American personnel, the secretary of public instruction, who is also the vice governor, and the director of education, being Americans. It has also been the policy to retain a large number of Americans in the bureau of education, especially for the promotion of the English-speaking program. With the advancing educational salaries, however, in the United States, it is becoming extremely difficult to secure and retain competent Americans for this important work. There can be no doubt that the educational program needs support. At present the total expenditures of Philippine revenues for education amount to 25 per cent of the total income of the government. This is about as large a proportion of the budget as can be devoted to this work. Still, with such expenditure, we have not been able to provide school facilities for more than 35 per cent of the children of school age. Until there is a greater economic development in the islands and a large increase in taxable values, any considerable further increase in expenditures for education is impracticable. The need of outside help in the educational work has been recognized as early as 1908, when Mr. Taft, then Secretary of War, reported as follows:

"Should Congress be anxious to facilitate and hurry on the work of redeeming the Philippine Islands and making the Filipino people a self-governing community it could take no more effective step than a permanent appropriation of

two or three millions of dollars for 10 or 15 years for primary and industrial education."

It is not proposed in the pending legislation to raise this larger question; it is desired only to call attention to the very great need which exists with respect to the present educational program in the Philippine Islands for educational leadership and direction. This need was clearly brought out as the result of an educational survey conducted in 1925 by Dr. Paul Monroe, of Columbia University, assisted by a staff of prominent American educators. The local funds available are all expended and for a number of years will continue to be expended for the ordinary routine school needs. With such a large educational program, however, there should be provided, in order to give assurance that these expenditures are being wisely made and that a proper type of education is being developed, funds for the support of educational research and experimentation. The educational survey report above mentioned points out that the greatest need of the system is educational leadership and strongly recommends that provision be made for it.

#### LOCAL SUPPORT FOR EDUCATIONAL LEADERSHIP DENIED

Realizing the importance of such leadership and the likelihood of not being able to secure from local funds entirely the support for the same, steps were taken to interest certain of the educational foundations in the United States, such as, the International Education Board, the General Education Board, and the Carnegie Foundation. The trustees of these funds manifested great interest in the Philippine educational program and expressed willingness to assist by providing certain funds to be expended in cooperation with local funds. During the 1926 session of the Philippine Legislature, this proposal was brought to the attention of the Filipino leaders and they were specifically asked to make an appropriation of ₱65,000 per annum to represent the local contribution in the effort to provide, in a cooperative way, for the much needed educational leadership and research.

It was also proposed that, in case the local legislature so preferred, all the necessary funds be provided locally. Both proposals were received unfavorably, the principal reason being that there was no desire to have any further increase in the American participation in the educational work, nor to receive funds from the outside, for to do so would involve the employment of American educational specialists. This instance is cited as indicating how important activities designed for the promotion of the welfare of the Filipinos themselves are embarrassed or defeated as the result of an undue insistence upon temporary political considerations.

As there is no indication that the attitude of the local legislature will change in this regard, it becomes necessary to secure the financial support from independent sources, such as from the internal revenue fund in question or from certain educational foundations. There should be provided out of the internal revenue funds \$50,000 annually to be expended in cooperation with similar expenses by educational foundations for the promotion and improvement of education in the Islands.

#### HELP FOR THE ENGLISH-SPEAKING PROGRAM

For the promotion of the English-speaking program, American classroom teachers are indispensable. The number of these has diminished approximately from 950 to 300. The local salaries are inadequate to attract and retain good teachers. It is unlikely that the local legislature will increase these salaries. Outside funds, therefore, are needed for the purpose of supplementing existing salaries, creation of additional positions for specialists in the teaching of English, and for more liberal allowances for travel expenses incurred in coming from the United States and return. One of the greatest difficulties encountered in retaining American teachers, especially in the provincial schools, is the lack of adequate living quarters. Teachers cottages, supplied with simple furniture, should be provided in such places where American teachers are employed. The local governments can not be expected to provide such equipment. For the promotion of the English-speaking program and the providing of adequate living quarters an annual expenditure of \$75,000 is needed.

## V. SPECIAL SCHOOL FOR AMERICAN CHILDREN

The number of American children of school age residing in Manila and suburbs is approximately 600. Of this, 250 are children of the members of the United States Army detailed here for service, approximately 60 are children of naval officers, and about 60 are children of employees of the civil government. There are also about 500 more children, one of whose parents is an American. Of these, 160 are in the government service. There is also a group of children of Army and Navy parentage at Corregidor, Camp Stotsenberg, Cavite, and Fort McKinley.

The school facilities for this group of children are now being supplied as follows: The central public school in Manila, 850 pupils; public school teachers detailed to conduct classes in Corregidor, Fort McKinley, Camp Stotsenberg, and Cavite; the American private school in Manila, maintained by contributions of patrons, about 150; other private schools, 50.

Since most of these children continue their education in the United States, they need a special curriculum adapted to the United States public-school curriculum. The Filipino curriculum of 11 years for the precollege work instead of 12, and the inclusion of certain special subjects for Filipinos children, does not meet the needs of American children. For this reason the central school, above mentioned, has been maintained as a special school for American children, although a limited number of Filipino children attend the same. Admission of this latter group, however, was discontinued several years ago. Due to the fact that the central school is not freely open to Filipino children, there has been for a number of years opposition to the maintenance of this school with Philippine local funds. In the 1926 appropriation act the following proviso was placed:

"Provided that no appropriation made for the bureau of education may be expended for the establishment, maintenance, or operation of schools where racial or religious discrimination is made in admission of students."

This proviso would have resulted in closing the central school and forcing the large group of American children in attendance there to go either to some private school at considerable expense or to attend the regular schools maintained for Filipino children. The latter alternative is difficult, inasmuch as the curriculum of these schools does not meet the needs of American children, and also because these schools are already very much overcrowded with Filipino children. Moreover, many American parents prefer that their children attend an American school. In a conference between the Governor General and the leaders of the Philippine Legislature in 1925, it was agreed that the proviso might be stricken out, but with the understanding that provision will be made for the school needs of the American children with funds derived from sources other than the insular treasury.

It is necessary, therefore, for American children here to have school facilities adapted to their particular needs and that the funds for the maintenance of this school be derived from the United States. The particular source is the internal-revenue fund in question. There will be needed for an American school adequate to take care of the American children the following: An initial outlay for grounds, a suitable building, and equipment, \$200,000, and an annual operation for salaries and maintenance of \$65,000. This last item includes the cost of maintaining schools in the Army and Navy posts above mentioned.

## AGRICULTURAL EXPERIMENT STATIONS AND AGRICULTURAL RESEARCH

The Filipinos are essentially an agricultural people and their main source of living is derived from agricultural pursuits. The development of the agricultural resources lies at the foundation of their economic welfare. Agricultural education and research have special significance here. The principal agencies for the promotion of agricultural interests are the farm schools under the bureau of education and the college of agriculture of the University of the Philippines, the latter being the institution where special study and investigation and experimentation are carried on in such subjects as composition and fertility of soils, plant pathology, plant diseases, selection and propagation of grains. This college is doing excellent work but is greatly handicapped for want of funds.

Several times during the past years an effort has been made to secure for the college the benefits of the various acts of the United States Congress for the promotion of agricultural and industrial education; such as, the Morrill Acts, the Adams Act, the Smith-Lever Act, and the Hatch Act. In order to secure the benefits of these acts, action by the local legislature is necessary. The

board of regents in 1925 strongly recommended to the Philippine Legislature that the necessary steps be taken. There was no action on this recommendation. It was called to their attention again at the 1926 session. The proposal to seek this Federal aid was opposed on the ground that to do so might create the impression that the Filipinos were unable to take care of their own educational projects, and to accept Federal aid would imperil the aspiration of the Filipino people for independence by creating possible ties to the United States. Politically speaking, it is impracticable to secure favorable legislative action, whereby this aid for agricultural experimentation can be obtained. The work is so great that it should receive help out of the internal-revenue fund under consideration. An annual expenditure of \$75,000 to promote agricultural research and experimentation at the College of Agriculture would be of very great help to the Filipino people and do much to promote their economic welfare.

#### VII. THE BUREAU OF SCIENCE

The bureau of science in the Philippines has in the past years been conducting very valuable research work. The results obtained and given out to the world through the scientific publications that have been issued from time to time have made this bureau one of the recognized centers of scientific research in the Far East.

It is within this bureau that the manufacture of the serums and vaccines used by the Philippine health service and other agencies for combatting diseases is carried on. Vaccines and serums for smallpox, cholera, plague, rabies, and rinderpest are produced here. In a tropical country it is a matter of vital importance to have these vaccines and serums standardized and produced under conditions where their purity and potency will be assured.

It is also under the auspices of this bureau that a survey of the fisheries is being conducted. Fish and other forms of sea life constitute the most important food supply, and is a source of great potential wealth in the islands.

There are also other fields of investigation vitally affecting the economic welfare which ought to be carried on in this bureau. The tendency here, as elsewhere, throughout the government, is to eliminate the American personnel. An effort at this is found in the 1925 and 1926 appropriation acts which omitted to appropriate the supplementary salary for the American director of the bureau, of the chief of the division of organic chemistry, and the mycologist. It has been necessary, in order to keep high grade Americans in this bureau, for the Governor General to supplement their inadequate salaries by payments out of his very limited discretionary fund. In order to assure the presence of a reasonable number of competent scientists in several important fields of activity, the Governor General should have at his disposal a certain amount annually from the internal-revenue fund. The amount that could be properly spent in this way is practically unlimited. It is believed that at least \$25,000 a year should be set aside. Moreover, there are certain educational foundations in the United States that would be willing to participate in this scientific investigation and support it if they could be assured that the bureaus would be free from an undue political interference.

#### VIII. INVESTIGATION INTO THE CAUSE AND CURE OF LEPROSY

The Philippine Islands have the largest leper colony in the world. The investigations and experimentations which are carried on at the Cullion leper colony have attracted world-wide attention. It is believed that the results being obtained there will contribute much to the ultimate eradication of this dreadful disease. Although there have been from time to time some objections urged by Filipinos to support the leprosy work, still under the pressure of the present Governor General a reasonable amount has been made available every year. The amount, however, is inadequate. In view of the very many other demands upon the local funds, it is not deemed wise to insist upon an increase of the existing local appropriation. An annual expenditure of \$30,000 from the internal-revenue fund to supplement the present appropriation would be of very great value.

Mr. RAGON. That is exactly what I want. But can you give me generally what that amounts to?

Secretary DAVIS. I can just give you these headings here, a summary of this brief; but I hope the committee will read the brief,



because it gives the things in detail. The salaries and expenses of the Governor General and his advisers would amount to \$80,000. Then there is a travel fund to be used for the promotion of interchange of visits of diplomatic, consular representatives in the Far East, and similar visits by American officials of the Philippine government; also for interchange of visits of representatives of other governments in the Far East—\$5,000. Then for salaries and traveling allowances of presidential appointees—that is the list that are provided for in the bill—the total amount now is \$105,000. If this bill went through, that would be \$150,000; and with the \$6,000 to cover travel expenses of American personnel, it would be a total of \$160,000. That will give that roughly.

The CHAIRMAN. That is salaries?

Secretary DAVIS. That is salaries plus traveling expenses.

The CHAIRMAN. Of the Governor and 14 officials.

Mr. RAGON. You said "160,000." Did you mean \$155,000 additional, or is this inclusive?

The CHAIRMAN. They are the same item.

Secretary DAVIS. They are the same item, plus traveling expenses.

"Educational facilities for American children." That is the question of the schools there. They have a good deal of trouble in getting schools for the American children. That is put down as \$65,000, which would be the annual operation of the schools.

For the promotion of educational research, experimentation and administration and to develop an adequate staff in the central office of the Bureau of education, for supplementing existing salaries, new salaries and travel expenses, \$50,000.

For the promotion of the teaching of English. This is to be done by supplementing certain existing salaries provided for American teachers, increasing the number to be employed, especially for the persons to work in the normal schools where the Filipino teachers are being trained, to provide better living conditions for teachers in the provinces and to give additional travel allowance between the United States and the Philippines, \$75,000.

To develop agricultural experimentation and research at the College of Agriculture, Los Banos. This involves the establishment of an agricultural experiment station on the same lines as similar stations established in American universities with the aid of the Federal Government, \$65,000.

Promotion of research in the bureau of science. This involves the providing of funds to supplement existing salaries, new salaries, and travel allowances for specialists in certain fields of scientific investigation. It includes also the study of the problem of serums and vaccines with the view of thoroughly standardizing their manufacture. It also involves the promotion of fisheries, \$50,000.

Mr. RAGON. Are there provisions for that last item in the Philippines now?

Secretary DAVIS. They are doing a certain amount of work. I understand that they can not get a sufficient amount of serum. They are doing some research work. It is very important work in connection with these tropical diseases. The Governor General recommends \$50,000 for that fund.

There is one other item: To promote research and experimentation in the field of leprosy treatment.

They are doing a wonderful work over there.

A few experts working independently of appointment from the Insular Government would be provided to study not only the treatment but the epidermology of leprosy—\$30,000.

Then there is a contingent fund of \$10,000. The total is \$590,000. As a matter of fact, I imagine that their revenues would not amount to that much.

Mr. RAGON. On the question of leprosy: The Governor General last year, I notice in the record that I have here of the hearing before the Ways and Means Committee—the Governor General last year asked for 331,620 pesos and he was given that identical sum. Now, has the Governor General had any difficulty with reference particularly now to this leprosy and sanitation and getting the legislature to do what he wanted it to do?

Secretary DAVIS. He feels that they cooperate with him, but that more funds are really needed to carry on the work that ought to be done.

Mr. RAGON. Why didn't he ask them for those funds?

Secretary DAVIS. I think he would have asked them, but he felt that he could not get them.

Mr. RAGON. This says that he has been given all that he requested.

Secretary DAVIS. I often don't ask for things I need because I know I am not going to get them.

Mr. RAGON. Last year he asked for 3,283,918, pesos, and he got more than 3,239,000. In other words, he got what he asked for within about 40,000.

Secretary DAVIS. I think the answer to that is this: Heads of departments know that there are certain limits to the figures that they can ask for. They have a limit in their own minds. The Governor General would probably have in his own mind a limit as to what the Philippines could spend for different things. Then he would ask for a sum within that limit in order to make the revenues equal the expenditures. You can not always ask for as much as you know you ought to have, simply for the reason that the revenues are not there.

Mr. RAGON. I know, but that is a pretty good system there. Here is the question that bothers me. From this paper—and I see no dispute of it in your record—in the expenditures under the supervision of the Governor General's office of the Philippine public health service for leprosy appropriations they have substantially complied with every request he has made there from 1923 on to 1926. With reference to the Governor General's office there has been a plus of the Governor General's request each year.

Secretary DAVIS. May I look at these individual things? He has got some discussion of these individual things, and he might have something there about that.

Mr. BACON. I could say something about that leprosy situation.

Mr. KNUTSON. We have only about 35 minutes left, and we are not discussing the bill. I think we ought to confine ourselves to the bill rather than the budget of the Philippine Islands.

Secretary DAVIS. Here is one thing. He discusses all of these things. For instance, here is one:

Local support for educational leadership denied.

The Governor General desired to get trained experts to come over there, which he has not been able to do. He says this:

During the 1926 session of Philippine Legislature this proposal was brought to the attention of the Filipino leaders, and they were specifically asked to make an appropriation of 65,000 pesos per annum to represent the local contribution in the effort to provide, in a cooperative way, for the much-needed educational leadership and research. It was also proposed that in case the local legislature so preferred all the necessary funds be provided locally. Both proposals were

received unfavorably, the principal reason being that there was no desire to have any further increase in the American participation in the educational work, nor to receive funds from the outside, for to do so would involve the employment of American educational specialists.

They are very much opposed to the employment of these specialists.

Mr. RAGON. In his last report he speaks very flatteringly of the cooperation he has had on education. General Wood says that. In the last general report of the Governor General over there he has complimented the legislature for cooperating with him on educational matters.

Secretary DAVIS. I think he does feel that, but I think he also feels that more money could be spent for the benefit of the Philippines in getting these specialists to come over there as advisers.

There is also the question of leprosy. That is a thing that he has given a great deal of attention to. He has done a wonderful work over there. I think he similarly feels that he has not got enough money to carry that on. Some of that money comes from the schools of America.

Mr. KNUTSON. I think we ought to discuss the bill rather than the budget. I didn't understand that this meeting was called to discuss the budget of the Philippine Islands.

Secretary DAVIS. I just want to answer your questions.

Mr. KNUTSON. I gave up a very important committee meeting to come here this morning, and I think we ought to get down to a discussion of the bill.

Secretary DAVIS. I think, to save your time, I think the whole thing is very fully discussed in this brief. I am going to leave it with the committee.

Mr. WILLIAMS. I would like to ask, Mr. Secretary: This bill really takes this money that the Philippine Legislature has been spending and lets Congress spend the money for the affairs in the Philippine Islands? Is that it?

Secretary DAVIS. It authorizes Congress to appropriate money collected from American citizens.

Mr. KNUTSON. Up to the present time the Philippine Legislature has been spending it?

Secretary DAVIS. They have in the last few years; yes. That has been turned over to them, as I understand, to augment their funds; but now they are well able to stand on their own feet. Their financial condition is coming along splendidly now.

The CHAIRMAN. Now, we have General McIntyre and General Hull. I think they will stay here. We will excuse the Secretary of War.

#### STATEMENT OF MAJ. GEN. JOHN A. HULL, JUDGE ADVOCATE GENERAL OF THE ARMY

Mr. UNDERHILL. I hope you will all pay attention to me, because I also have some knowledge of this legislation.

In reading the provisions for the establishment of the court of claims I wanted to ask if it did not differ from our Court of Claims with reference to contracts and to money annually collected on taxes or customs duties.

General HULL. Arising under the construction of the laws of the United States?

Mr. UNDERHILL. Yes.

General HULL. It has a number of different provisions.

Mr. UNDERHILL. Does this act here extend it any further than our present law?

General HULL. It doesn't go as far as our Court of Claims.

Mr. UNDERHILL. Well, I notice that in another section here it provides that in the event of judgment against the government of the Philippine Islands, interest not exceeding 6 per cent may be allowed. Is that a provision of the present law?

General HULL. The American law on that, on taxes—we recover from the time of taking to the date of the judgment. This is left to the discretion of the court. In a case not long ago, arising in contract, the court of claims called attention to the fact that the merchant of this town had been unjustly kept from that money for years, but the law was so peremptory that we could not give it.

Mr. UNDERHILL. I know that the President vetoed a bill which was recently passed by Congress because it did carry interest, and I know that in practically all the admiralty bills which we pass in the Committee on Claims we specifically provide that interest shall not be paid.

General HULL. That was that Indian claim.

Mr. UNDERHILL. Yes.

General HULL. That was an exceptional matter.

Mr. UNDERHILL. Yes; but it has been the practice of the Claims Committee here not to allow interest in any case against the Government.

General HULL. Well, you allow interest now in a great many cases.

Mr. KNUTSON. The gentleman is in error. The Indian Committee has reported out a number of what we call jurisdictional claims allowing not only what they claim, but interest from the time that the treaty violation took place.

Mr. UNDERHILL. Yes; and that was the very ground upon which the President vetoed that Indian bill.

Mr. KNUTSON. Yes; but the President also signed a bill for the Minnesota Chippewa Indians where they were allowed interest. The President thought in this other case that the Shoshone Indians did not have a valid claim against the Government.

General HULL. It is left here to the discretion of the court to handle this situation. If the Government unlawfully and arbitrarily in the misjudgment of its officials takes away from one of its citizens money and forces him into protracted litigation, and then years later gives back to him not his expenses, but simply the bare money which it had unlawfully taken and kept away from him for five years, it doesn't seem to me that you are doing wrong in allowing the court in its discretion to give him 6 per cent interest.

Mr. UNDERHILL. That is allowed in our Court of Claims.

General HULL. Yes; not in all cases, but in some cases. In this bill we don't allow it in all cases, but we authorize it in the discretion of the court.

Mr. BRUMM. There were three bills passed the Committee on Mines and Mining in which they granted interests for mineral claims since the war.

Mr. UNDERHILL. I know that the Committee on Indian Affairs and the Committee on Mines and Mining and every other committee

except the Committee on Claims get most everything through no matter how raw it is. We can't get anything through.

General HILL. The modern tendency toward interest has naturally been to favor it. It was 60 years ago that these rules were first adopted.

Mr. UNDERHILL. Page 6, line 17:

No suit shall be instituted on matters arising prior to the passage of this act, and no cause of action shall be cognizable by the court unless suit is instituted within three years after the claim first accrues.

Is three years the usual term?

General HULL. Six years is the limitation here. I called the attention of the chairman to the six-year rule; and he wanted three primarily for this reason: Six years is a very long time to wait. A great many of our cases are lost in the court of claims, speaking from the standpoint of a Government attorney, by the turn over of Government personnel, and the dispersion of witnesses and the loss of their testimony. Three years is ordinarily time enough to bring a suit if you are going to press it. In the Philippines you have an even greater turnover and a greater dispersion of witnesses than you have here.

Mr. UNDERHILL. I am in thorough accord with this. I suggested two years rather than three years because of that very same thing.

Mr. DALLINGER. It is six years in the United States.

General HULL. Six years in the United States.

Mr. UNDERHILL. On account of the dispersion of witnesses and witnesses dying, the Government is mulcted millions and millions of dollars.

The CHAIRMAN. Mr. Underhill, have you finished your questions?

Mr. UNDERHILL. Yes.

The CHAIRMAN. Have you anything else to state, General Hull?

General HULL. I have one other thing that I am very sorry I didn't say sooner. I might say in reference to the Court of Claims that the chairman asked me to write this based on the Philippine law, and I wrote it with the statute relating to the Court of Claims of the United States and the Philippine law on each side. I brought my work to him, and he directed me to change it around; and this is the final result.

There is just one thing that has been dropped out by accident. That is on the top of page 4:

In the manner hereinafter provided.

The CHAIRMAN. Now, Mr. Guevara.

Mr. RAGON. Are we going to hear any more testimony in favor of this bill?

The CHAIRMAN. We can not hear any more in favor of the bill, but General Hull and General McIntyre are here to answer any questions of members of the committee.

Mr. RAGON. Is it different from what we have heard?

The CHAIRMAN. No.

Mr. RAGON. It strikes me thus: Upon the Philippine men here should not be imposed the burden of making a case against it.

I would like to ask a question about these salaries.

The CHAIRMAN. General McIntyre is more familiar with that than anyone else.

Mr. RAGON. That is what I want.

**STATEMENT OF MAJ. GEN. FRANK M'INTYRE, CHIEF OF THE  
BUREAU OF INSULAR AFFAIRS**

Mr. RAGON. General, the Governor General's salary at the present time is how much?

General McINTYRE. The Governor General's salary at the present time is \$18,000.

Mr. RAGON. Now, under this bill it would be increased to \$25,000?

General McINTYRE. \$25,000; yes, sir.

Mr. RAGON. What are the other increases?

General McINTYRE. I can give those in a very few minutes. The vice governor at the present time gets \$10,000. This increases his salary to \$15,000.

Mr. RAGON. Just right there: What are his duties?

General McINTYRE. The vice governor is head of the department of education, which has all to do with the functions of education and sanitation. Also the vice governor acts in the absence of the governor.

Mr. RAGON. And his salary is \$10,000?

General McINTYRE. \$10,000.

Mr. RAGON. And you increase it to \$15,000?

General McINTYRE. Yes. Now, before 1916, before the salary was reduced, he got, that is, the member of the commission who corresponded to his position, got a salary of \$15,500; so this doesn't put him back to quite where he was 15 years ago.

Mr. RAGON. All right. Now, I want to say this before I go any further: I am in favor, and I think this committee is unanimously in favor, of increasing the Governor General's salary; but these other men—I am asking for information. I don't know about them.

General McINTYRE. I am going to refer to them. For instance, this year we hope that General Wood will come home partly on business and partly to rest. That means that the vice governor, on a salary of \$10,000 per annum, would perhaps be running the government for, say, six months. That is a condition that occurs right along. The vice governor is frequently acting as governor without any increase of salary. So that there are many reasons why it is necessary to raise his status.

Mr. KNUTSON. To exemplify, let me ask this question: Is either the governor or the vice governor allowed anything for entertainment purposes?

General McINTYRE. The Governor General is; the vice governor is not.

Mr. KNUTSON. Then he certainly ought to have \$15,000, because he has got to do a lot of entertaining.

Mr. RAGON. For entertainment purposes he would have the fund that is given the Governor General.

General McINTYRE. When the governor is gone, yes.

Mr. GILBERT. Let me call the attention of the gentleman from Arkansas to the fact that \$25,000 spent in the Philippine Islands has a purchasing power fully equal to \$60,000 in the United States.

General McINTYRE. That is not our experience.

Mr. GILBERT. That is my personal experience.

General McINTYRE. I have been appointing school teachers to the Philippine Islands for 18 years. When a man comes to me and asks to be appointed as a school teacher or secretary or anything like that, I advise him that he is making a serious error to accept a position in the Philippine Islands unless he gets at least 50 per cent more salary than he did in the United States. I have been reproached for putting it too low rather than too high. A man leaves his home and leaves his interests when he goes out there.

Now, that ratio depends a good deal on the location of the man and somewhat on the man's methods of living; but in Manila a man spends just about the same that he does in the United States. In the Provinces he spends a great deal less, but most of these men reside in Manila.

Mr. GILBERT. I would not put my knowledge against that of General McIntyre, who is a man of great ability; but I noticed that in Manila clothes, shoes, anything that you buy, could be bought for at least half the price that they could be bought in the United States for.

General McINTYRE. That is true of some articles, such as clothing—of course a man wears less clothes there—and other little things of that nature. But, of course, when a man comes home he has got to have winter clothes as well as summer clothes. When he comes home frequently he goes from tropical to very cold weather.

The CHAIRMAN. General McIntyre, has the War Department indorsed these salaries that are fixed in this bill?

Mr. RAGON. I would like to proceed with this inquiry as to salaries.

The CHAIRMAN. Yes.

Mr. RAGON. What is the salary of the other officers?

General McINTYRE. The next officer is the auditor. The auditor receives \$6,000. Now, I might say that we have great difficulty in getting an auditor for \$6,000.

Mr. RAGON. He gets also \$4,000 added to that \$6,000?

General McINTYRE. Yes. That was added to the auditor's salary. The salary was too low. Mr. Weeks, when he appointed the last auditor, promised him—he said, "I appreciate that the salary is inadequate, but I will do everything possible to get you a salary of at least \$10,000." The man has been appointed with that understanding. So the department has uniformly thought that \$6,000 was too little.

Mr. RAGON. How much does he get under this bill?

General McINTYRE. He will get \$10,000, which he now gets; but that will avoid that indirect way of paying it.

Mr. RAGON. Do you think that his position is less important than that of the vice governor?

General McINTYRE. I think so. I think so because of the fact that the vice governor must act as governor. Then he has two big departments—education and health—to take care of.

Mr. RAGON. Now, the next are the associate justices.

General McINTYRE. The associate justices—this bill recommends increases of the associate justices' salaries to what you have just fixed for a district judge of the United States. It gives the chief

justice \$500 less than you have just given the circuit court judge in the United States. Of course, these were not recommended with that in view. We had recommended those long before you had made those changes. But Congress has just increased the salaries of the United States judges but has not increased the salaries of these judges.

Mr. RAGON. What are their present salaries?

General McINTYRE. The present salary is \$7,500. The chief justice gets \$8,000.

Mr. RAGON. What does the chief justice get under this bill?

General McINTYRE. We propose to give him \$12,000 and the assistant justices \$10,000.

Mr. RAGON. General, do you know how that corresponds generally with the State supreme courts? As I see it, they might well be compared with them.

General McINTYRE. The State supreme courts vary so much. For instance, in New York State they get a much larger salary than in most of the other States. In some States they get a very much lower salary.

The CHAIRMAN. The Pennsylvania judges receive twice that amount.

Mr. BACON. In New York they get \$25,000 and extras, which brings it up to about \$27,500.

Mr. RAGON. I am not questioning these salaries. As I understand it, the governor appoints all these supreme court judges?

General McINTYRE. No; the President.

Mr. RAGON. I mean the President.

General McINTYRE. Yes. The President appoints them all.

Mr. RAGON. How much do those men get corresponding to Cabinet officers? For instance, they have over there a man who corresponds to the Secretary of State and Secretary of the Treasury, and auditor, etc. What are their salaries?

General McINTYRE. I can give you that in just a minute, if you will permit me to look it up—\$6,000 per annum.

The CHAIRMAN. Mr. Ragon, you understand that we are only raising the salaries of the presidential appointees?

Mr. RAGON. I will say this to General McIntyre and the members of the committee: One of the features to which objection was raised by the Ways and Means Committee, where they refused to report this bill out, one of the objections they raised there was the fact that the American Government was increasing the salaries of these officials so much out of proportion to what the Philippine government was paying that the Philippine government would naturally have to increase their salaries or there would be naturally discontent over there. That was the reason why they objected to it.

The CHAIRMAN. Of course, we are only increasing our own officials.

Mr. RAGON. I understand, but is it a healthy thing for us to walk over there and give our officials a big increase, while men who are officials of the Philippine government, doing practically the same responsible work, get a great deal less?

The CHAIRMAN. But we can not get the type of men that we ought to have to go over and take these jobs unless we pay them well.

Mr. RAGON. I am asking about this feature for information. If I am doing wrong in this questioning, tell me so; but several members



from both parties have asked me to proceed since I have been going on. I think it is important. In the first place you are going to have to explain why we passed this bill out of here when the Ways and Means Committee have refused it twice.

The CHAIRMAN. The Way and Means Committee have not refused it at all.

Mr. RAGON. They have.

Mr. DALLINGER. While he is looking that up: Congress recently did overwhelmingly vote to pass a bill increasing the Federal judges in spite of the attempt of a small minority to oppose it in the House on the very ground that the gentleman from Kentucky has stated, that the State judges receive very much smaller salaries in many States.

Mr. RAGON. Now, these other officers—the point I am trying to make—I don't want you to misunderstand me—the point I am trying to make is this: When you increase the salaries of these men that we send over there, what is going to be the effect on the Philippine government with reference to its men that hold almost equally responsible positions? That is something that the committee has got to take into consideration.

Mr. HUDSON. Won't that same thing hold true with reference to the Federal and State salaries?

Mr. BEEDY. Mr. Hudson was asking a question here. I don't know what it was, now—

Mr. HUDSON. My observation was to Mr. Ragon, in reply to Mr. Ragon's inquiry as to creating this discontent if we would raise the salaries of one group of officials when we are not touching the salaries of another group of officials, and which, in fact, we have no right to touch, of course, of the Philippine officials there—we have no right to touch their salaries—but the same question could apply to us when we are raising the salaries of Federal officials. Those officials out there are similar to State officials in these States. We might say that we are raising discontent in the State officials.

Mr. RAGON. Well, we have a right, as I understand it, to raise those salaries if we want to.

Mr. BACON. We have a right to raise those.

Mr. HUDSON. But we haven't a right to raise the salaries that are fixed by the Philippine Legislature.

Mr. RAGON. I think we have a right to do that.

Mr. HUDSON. They wouldn't want us to do that.

Mr. RAGON. I don't think they want us to do this.

The CHAIRMAN. May I answer that question? These are the only salaries that were fixed in the Jones Act; and if we were to start fixing their salaries, it seems to me we would be getting into trouble. We are only fixing salaries which are mentioned in the Jones Act, which applies only to presidential appointees.

Mr. RAGON. It is just a question of—of course, the great criticism is that you are raising one set of salaries and you don't raise the other set.

The CHAIRMAN. I have indicated the differentiation. They are different classes.

Mr. RAGON. They are cabinet officers and some are sitting in the supreme court.

The CHAIRMAN. The fact remains, Mr. Ragon, that this is a question of the salaries—let us get this straight—this is not a new

question—the War Department, which really knows more about it than probably any member of the committee. Secretary Baker, Secretary Weeks, all the Secretaries, including Mr. Davis, have consistently recommended increasing these salaries in order to get the right kind of men. General McIntyre insists upon it. I asked him whether they were too high, and he said that he thought they were very reasonable salaries. They are fixed in the bill on the recommendation of the War Department.

Mr. RAGON. That is what I am trying to investigate. My idea is if men are living in the Philippine Islands they are available for appointment to the supreme court. That puts an entirely different light on it. You are increasing the judges' salaries because you have the same here as over there.

Now, the members of this committee of course—for instance, a very able brief was sent in in the Ynchausti case. It looks to me as if you have some pretty good lawyers over there. A man who holds public office isn't getting very far. I would like to see those men picked from the lawyers in the Philippines. But isn't the increase of these salaries all out of proportion to the men that we send over there, corresponding to our own Cabinet? That is my objection.

The CHAIRMAN. As I understand it, you do not object to the governor, vice governor, etc., but you object to the salaries of the judges being raised.

Mr. RAGON. Yes. Those salaries in the courts.

General MCINTYRE. May I say about the courts: If you are going to appoint an associate justice of the Supreme Court of the Philippine Islands, the chances are that you will have to select him over here, unless you select a Filipino. That is, there are four places on the court that have been uniformly reserved for Filipinos. Those are supposed to be the four outstanding Filipinos, the heads of their profession in the islands; that is, the pick of all the men. Of course, for the Americans you want at least equally as good men. You have before you a brief of Judge Fisher on this and certain other features of this bill.

Now, we appointed Justice Fisher justice of the Supreme Court of the Philippines, but he refused. We could not get him.

Mr. RAGON. How many of those men that you have appointed over there have you picked over there and how many have you sent over there? How many of them have you appointed who at the time that they were appointed lived in the Philippines?

General MCINTYRE. There is a man in the court now who lived in the Philippines at the time he was appointed in that service, but some of them were appointed judges of first instance. Then they acquired the language and the laws of the islands and then they were promoted. Now, for instance, you have Justice Malcolm, who was appointed first to a subordinate position over there. Judge Ostrand was a judge of first instance, but when he was appointed to the supreme court, he was judge of one of the courts of Santo Domingo. Justice Street was appointed originally one of the code commissioners, a commission of lawyers to codify the laws of the Philippines. Then he was made a justice of the supreme court.

Mr. RAGON. How long had he been over there when he was appointed?

General McINTYRE. He had been there about three years when he was appointed justice of the supreme court, but he had never practiced outside. I don't think that any men on the courts now have ever practiced as a practicing lawyer in the Philippine Islands; that is, any of the Americans on the court. They have all been promoted or sent over there. The last vacancy was filled by Justice Johns—he was sent out from the United States to the islands.

Mr. RAGON. Of course, you don't mean the Filipinos? They were natives?

General McINTYRE. Naturally; they are local. Most of those have been promoted in the service. It is difficult to get the very successful men.

Mr. DALLINGER. How many of them are there on the supreme court?

General McINTYRE. There are 9 altogether, 5 Americans and 4 Filipinos. The chief justice is a Filipino and has been since the organization of the court.

Mr. RAGON. It is considered a rather able court?

General McINTYRE. Yes, sir. It has always been so considered; and they try to keep it up.

Some years ago they went through this that we are now doing. At the urgent request of Justice Taft, because he could not keep the court over, the salaries of those officials were increased. They were then lowered subsequently, so that what we are now asking is to put them back to what they were some years ago.

Mr. BEEDY. Is this as high as they were then?

General McINTYRE. I think so. I can give you the exact salaries. In 1913 the salaries were lowered, between 1913 and 1916. In 1916 we fixed the lowest salaries that they should receive.

Mr. BEEDY. Isn't there anybody here who can tell the committee what the present officers there corresponding to our cabinet officers are getting?

General McINTYRE. Yes. I can get that in a minute.

Mr. RAGON. I think it is \$6,000.

Mr. GUEVARA. The secretaries, the department secretaries, corresponding to the Cabinet here, get \$6,000.

The CHAIRMAN. Of course, we haven't any positions here to compare to the governor's secretaries.

Mr. RAGON. Have you given them the duties that they ought to perform? I can't see why the attorney general should not be as important as anybody over there. The vice governor is practically fulfilling the duties of a secretary, and you are increasing his salary to \$15,000.

General McINTYRE. Over here the attorney general runs his department. Over there the attorney general—you have a secretary of justice and the attorney general is not the head of the department.

Mr. DALLINGER. He is more like a solicitor general here?

General McINTYRE. Yes.

Mr. RAGON. Doesn't he defend cases against the government?

General McINTYRE. Yes.

Mr. RAGON. Doesn't he handle all of the government's practice?

General McINTYRE. Yes; but he is not the head of the department.

Mr. RAGON. He represents that department? He is the person who represents it?

Mr. BEEDY. No. There is a secretary who represents the department except in court.

Mr. RAGON. What is the difference? Who is their attorney general over there?

General McINTYRE. The attorney general is now Mr. Jaranilla.

Mr. RAGON. Is he what you call the secretary of justice?

General McINTYRE. No. The secretary of justice is the head of the department of justice and is one of the cabinet.

Mr. RAGON. That is the salary that I want.

Mr. GUEVARA. \$6,000.

The CHAIRMAN. General McIntyre, you are familiar with all the provisions of this bill, because it was gone over by your office?

General McINTYRE. Yes.

The CHAIRMAN. Do you approve of the other sections besides the salaries?

General McINTYRE. Yes. This bill has been carefully gone over, and I find absolutely nothing in it that I disapprove.

The CHAIRMAN. You have taken out the features which the War Department thought ought not to be in. That is what I wanted to bring out, Mr. Ragon. What I wanted to bring out is that this bill is so different from the bill that this committee reported at that time. There were some things that there was some controversy about, but General McIntyre says now that the War Department indorses every feature that is in the bill. That is what I wanted the committee to know.

Mr. RAGON. Did he indorse the bill that was presented last year to the Ways and Means Committee?

General McINTYRE. Yes; but that was one part of the bill.

Mr. RAGON. Have you indorsed the bill introduced before the Ways and Means Committee this year, the one that Mr. Kiess introduced this session?

General McINTYRE. Yes, sir. Practically the same bill.

The CHAIRMAN. It is the same.

Mr. RAGON. Then, I want to ask the chairman this: Why is it that if the Ways and Means Committee after this bill was introduced had it referred to them, why has it come back to us?

The CHAIRMAN. The reason that this has come back to us is that the major portion of this bill is for the Insular Affairs Committee. We had another question of that kind and the parliamentarian decided that the practice of the House is that when the major portion of the bill is under the jurisdiction of a committee, that the bill goes to that committee. I did not want the other bill to go to the Ways and Means Committee, because I think the Committee on Insular Affairs is competent to deal with questions relating to the Philippines and Porto Rico, but the parliamentarian decided we were not entitled to have that bill.

Mr. BACON. The parliamentarian is mistaken.

Mr. BEEDY. What has happened here? Where was this committee and where was the chairman when a matter concerning particularly our province was without protest referred to the Ways and Means Committee? I didn't know anything about it.

The CHAIRMAN. It wasn't referred without protest.

Mr. HUDSON. The Chairman protested. The parliamentarian made a mistake in referring the bill. Then it was rereferred back here.

The CHAIRMAN. After it was reintroduced.

Mr. HUDSON. It was all properly done, so that that committee has not considered this legislation, of course, at all.

The CHAIRMAN. Who hasn't considered it?

Mr. HUDSON. The Ways and Means Committee.

The CHAIRMAN. At this session?

Mr. BEEDY. At any session.

Mr. RAGON. May I make this point?

The CHAIRMAN. Certainly.

Mr. RAGON. Isn't it a fact that we had a controversy with members of the Ways and Means Committee with reference to this bill? This session, the parliamentarian having referred that bill over there, the only way we could get control of this bill was to reintroduce it as joint bill, with the other bill.

The CHAIRMAN. The facts are that these are both my bills. In the last session a similar bill was referred to the Ways and Means Committee. I took this bill to the Speaker and to the parliamentarian, taking the position that it really was in the jurisdiction of this committee.

Mr. RAGON. At the last session.

The CHAIRMAN. No; this time. The parliamentarian, the Speaker, and Mr. Green, chairman of the Ways and Means Committee, agreed that we were entitled to this bill, and that was the way that I understood it was to be referred when I introduced it.

Mr. BEEDY. That doesn't quire satisfy me. I am not so much concerned in what happened this session; but how did it happen at the last session that this bill went over there to the Ways and Means Committee to be considered when it is our business, and no protest made last session?

The CHAIRMAN. I thought at the time that it belonged to this committee.

Mr. BEEDY. Was any protest made last session?

The CHAIRMAN. Not on the floor.

Mr. BEEDY. Anywhere?

The CHAIRMAN. Yes; I protested. I thought it should go to the Committee on Insular Affairs.

Mr. BEEDY. And the parliamentarian overruled your protest?

The CHAIRMAN. Some one did.

Mr. HUDSON. I would like to ask this question of the chairman.

The CHAIRMAN. Yes.

Mr. HUDSON. Are we to have General McIntyre at a further hearing?

The CHAIRMAN. I am going to ask General McIntyre and General Hull to be here to-morrow to answer any questions.

(Thereupon, after some informal discussion, the committee adjourned at 12.10 o'clock p. m. until to-morrow, Friday, February 4, 1927, at 10.30 o'clock a. m.)

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Friday, February 4, 1927.*

The committee this day met at 10.30 o'clock a. m., Hon. Edgar R. Kiess (chairman) presiding, for further consideration of H. R. 16868, which is a bill to clarify and amend existing laws relating to the powers and duties of the auditor for the Philippine Islands.

The CHAIRMAN. We will continue our hearing on H. R. 16868 this morning, by hearing Mr. Guevara, Philippine Resident Commissioner.

**STATEMENT OF HON. PEDRO GUEVARA, A RESIDENT COMMISSIONER OF THE PHILIPPINE ISLANDS**

Mr. GUEVARA. Mr. Chairman, it is with much regret that I appear before the committee this morning to oppose the bill under consideration, especially because it was introduced by you. I hold the chairman of this committee in high esteem and I only wish I may find my way, if not at present, then sometime in the future, clear to again appear before this committee and advocate some bill bearing his name. However, as I have said, I am opposed to H. R. 16868, on the following grounds: First, it increases the power of the auditor of the Philippine Islands and unnecessarily enlarges his jurisdiction; second, it amends the Jones law of the United States, revoking a policy initiated by the Congress itself and which has been followed during the last 24 years; third, it creates two kinds of bureaucracies in the Philippine government. One part is by the Government of the United States and one part is by the Philippine government, which will be an obstacle in the long run in the way of harmony and cooperation between the several branches of the government.

H. R. 16868 would amend section 24 of the Jones law which was approved August 29, 1916. A comparison of the wording of section 24 of the Jones law with H. R. 16868 will show members of the committee a very slight change in wording. The only change that members of the committee may find is the insertion on page 2, line 1, of the words "and claims."

Therefore if the proposed bill is enacted into law, section 24 of the Jones Act, which was approved on August 29, 1916, will read as follows:

That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts and claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the Provinces or municipalities thereof. He shall perform a like duty with respect to all government branches.

There is another amendment in H. R. 16868 which provides that the auditor—

shall perform a like duty in respect to all government branches, and all corporations of which the government, or any province or municipality thereof, owns a majority of the capital stock.

The amendment to section 24 of the Jones law may be divided into two groups.

It gives jurisdiction and authority to the auditor to examine, audit, and settle not only all accounts but also all claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues.

The second group provides that the auditor shall examine, audit, and settle not only all accounts but also all claims in respect to all corporations of which the government, or any Province or municipality thereof, owns a majority of the capital stock.

For a better understanding of the far-reaching importance of the amendment suggested to section 24 of the Jones law, I desire at this time to quote for the information of members of the committee the legal definition of the word "claims." "Claims," according to several decisions of the Supreme Court of the United States and the supreme courts of several States of the United States, means to assert a personal right to any property or any right; to demand the possession or enjoyment of something rightfully one's own, and wrongfully withheld. That definition is taken from *Hill v. Henry* (66 N. J. Eq. 150; 57 Atl. 555).

Again, in *Lawrence v. Miller* (2 N. Y. 245, 254) it was held that a claim is a right or title, actual or supposed, to a debt, privilege, or other thing in the possession of another; not the possession, but the means by or through which the claimant obtains the possession or enjoyment.

In the case of *Prigg v. Pennsylvania* (16 Pet. 615, 10 L. Ed. 1060), it was held that a claim is, in a just, juridical sense, a demand of some matter as of right made by one person upon another to do or to forbear to do some act or thing as a matter of duty. A more limited, but at the same time an equally expressive definition, was given by Lord Dyer, when he said that a claim is a challenge by a man of the propriety or ownership of a thing, which he has not in possession, but which is wrongfully detained from him.

According to these legal definitions I have quoted from the decisions of the Supreme Court of the United States and supreme courts of several States of the Union, the word "claim" comprehends and embraces all rights or demands that any person may make. For instance, if this bill is enacted into law all disputes about taxation will be settled by the auditor instead of by the official now designated by law to do so in the Philippine Islands.

The CHAIRMAN. If I may, I will call your attention to the fact that in the new bill we have cut out the provision "including refunds of taxes and customs" which is now in the bill on the calendar and which we reported out on June 3 last. Therefore, your reference to the tax matter does not apply to the bill H. R. 16868. The bill which we reported out in June contained the words I have just quoted, but there was considerable opposition to them, and that is one of the places where we have tried to meet your objection and also the objection of Mr. Fisher, who prepared that brief.

Mr. GUEVARA. In fact, Mr. Chairman, I believe the insertion of the word "including refunds of taxes and customs" in the former bills are unnecessary to accomplish the same end if this bill is passed with the words "and claims" in it.

Mr. SABATH. There is no provision in there that these claims should not have reference to any taxes. We merely struck that out of the old bill, but the word "claims" might be construed under the ruling of the Supreme Court of the United States to include demands for overpayment of taxes that have been levied and collected.

The CHAIRMAN. I might say to the members of the committee that it was supposed the auditor had jurisdiction over claims, and the debate that occurred in the Senate and the House when the Jones bill was under consideration clearly indicated that it was the intention at that time that all claims should be audited by the auditor. That is one of the things H. R. 16868 would clarify.

General HULL. If I may speak, we may find in section 584 of the Revised Administrative Code of the Philippine Islands of 1917, the law covering the general jurisdiction of the bureau of audits. It says:

The authority and powers of the bureau of audits extend to and comprehend all matters relating to accounting procedure, including the keeping of the accounts of the government, the preservation of vouchers, the methods of accounting, the examination and inspection of the books, records, and papers relating to such accounts, and to the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as to the examination and audit of all debts and claims of any sort due from or owing to the government of the Philippine Islands in any of its branches.

The said jurisdiction shall also extend to all corporations established and organized in accordance with the laws of the Philippine Islands wherein the government of the said islands or any of its branches owns the majority of the stock. In the exercise of this jurisdiction the insular auditor shall act as the ex-officio auditor of the said corporation and as such he is empowered and authorized, with the approval of the board of control, composed of the Governor General and the presidents of both houses of the Philippine Legislature, to appoint a representative in the said corporation. The insular auditor, with the approval of the board of control above mentioned, shall have the right to appoint and fix the salaries and the number of the personnel to assist said representative in his work. The expenses for the maintenance and operation of his office shall be paid by the corporation concerned.

Mr. BACON. That is the same law that was passed by the Philippine Legislature?

General HULL. Yes.

The CHAIRMAN. The word "decide" appeared in H. R. 11617, but, at the suggestion of General Hull, we struck it out. We have tried to meet these objections in H. R. 16868, and that is the reason I invited Mr. Guevara's attention to the fact that I thought he was talking about something that was not in fact a part of H. R. 16868.

Mr. KNUTSON. Tell me how claims against the government in the Philippines are settled now.

Mr. GUEVARA. They are settled by different agencies created by law. For instance, claims by reason of excessive tax on real estate are settled by a municipal board, and the right of appeal to the provincial board and from there to the chief of the executive bureau, whose decision is final, lies.

Mr. WILLIAMS. Who are the executive board?

Mr. GUEVARA. The head of the executive bureau is known as the chief of the executive bureau. Through the executive bureau is exercised, conformably with law, the administrative supervision and control of the secretary of the interior over Provinces, municipalities, chartered cities, and other local political divisions, not being in the territory under the administrative supervision of the bureau of non-



Christian tribes. The executive bureau is in charge of most of the affairs.

Mr. WILLIAMS. How is that bureau created?

Mr. GUEVARA. By a law of the Philippine Islands.

Mr. KNUTSON. Is it an appointive or elective body?

Mr. GUEVARA. The chief of that bureau is appointed by the Governor General by and with the advice and consent of the senate.

The CHAIRMAN. I desire to call attention to the fact that our law, since 1817, always refers to "accounts and claims." We are not putting into H. R. 16868 anything that we do not have in our own law of the United States. I would not have the impression go abroad that we are trying to put something in a law to govern the Philippine Islands that we do not have here. Our Federal law conforms to the bill under consideration. In fact, one of the purposes of H. R. 16868 is to harmonize the accounting system there with our own accounting system.

Mr. BACON. And this provision conforms with the law passed by the Philippine Legislature itself.

Mr. GUEVARA. I am very glad to have these questions propounded, because they lead us to a clarification of the objects and doubts that may arise in the interpretation of the wording of the bill now under consideration. However, I wish to make this observation to the committee: If having a law in the Philippine Islands at this time, why should the Congress of the United States enact a law supplanting the law enacted by the local legislature, if that is the case? If the Philippine law itself covers what is intended to be done by H. R. 16868, the Congress of the United States is wasting its valuable time by discussing proposed laws which are already in force in the Philippine Islands.

The only thing that could justify a consideration of this bill, despite the fact that there is now in force in the Philippines a law with the same provisions, is that the Congress desires to absorb the authority it has given to the Philippine Legislature.

The CHAIRMAN. The Philippine Legislature has no power to modify or change the Jones Act in any respect. If any change is to be made in that law it must be made by the Congress of the United States. In other words, the Jones law would have to be clarified by the power that made it and that is the Congress of the United States.

Mr. HUDSON. After a period of 16 years it is not strange that we may need legislation to clarify and amplify the legislation, although it does not change it in its substantial effect.

The CHAIRMAN. Take our own case; we are amending and supplementing our own laws every day.

Mr. SABATH. Has anything occurred in the Philippine Islands that requires the clarification of the so-called Jones Act in this respect?

The CHAIRMAN. Yes; there have been disputes between the auditor of the Philippine Islands and other branches of the government.

Mr. SABATH. Do those disputes have to do with allowing and rejecting of claims?

The CHAIRMAN. Yes; and we desire to make the authority and responsibility perfectly clear.

Mr. SABATH. You want it made clear that the auditor shall have the right to pass upon all claims?

The CHAIRMAN. Yes; and in order to make it easier for the Filipinos to appeal from the decision. There is a method of appeal prescribed in section 25, of Senate No. 381, Sixty-fourth Congress, which is the so-called Jones Act, and that is not disturbed by H. R. 16868. Then we create a court of first instance so that those people may appeal to the court for further determination, just as we have rights of appeal in the United States. We are following as closely as we can our own methods. Of course there are certain conditions that are different in the two countries, and make it impossible for us to build up in the Philippine Islands certain tribunals that are essential to the United States. We would give the auditor of the Philippine Islands the power we would give a comptroller general if there was such an official in the Philippine Islands. There is nothing in this provision having to do with an auditor except to clarify the present law.

Mr. SABATH. H. R. 16868 would give him not only power to examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source of the Philippine Government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues, but it would give him the right to examine, audit, and settle all claims pertaining to the same things.

The CHAIRMAN. That is the law in the United States. This section of H. R. 16868 is the present law, word for word, except the words "and claims" have been added.

Mr. HUDSON. But we do provide for an appeal.

The CHAIRMAN. Yes.

Mr. SABATH. The commissioner is objecting to the inclusion of the words "and claims."

The CHAIRMAN. Yes. General Hull has just read to us the general jurisdiction of the bureau of audits of the Philippine Islands. He read from the Revised Administrative Code of the Philippine Islands of 1917.

Mr. SABATH. I would not create more government departments and stir up further litigation. I would have this matter simplified in the best way possible.

The CHAIRMAN. H. R. 16868 would, we believe, save litigation.

Mr. GILBERT. H. R. 16868 provides that the auditor of the Philippine Islands shall, examine, audit, and settle all accounts and claims pertaining to the revenues and receipts, from whatever source, of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof. Further, he shall perform a like duty in respect to all government branches and all corporations of which the government, or any province or municipality thereof, owns a majority of the capital stock.

The CHAIRMAN. We would want him to do that.

Mr. GILBERT. No, sir. My question is simply whether his performing a like duty in respect to all government branches and all corporations of which the government, or any province or municipality thereof, owns a majority of the capital stock is not an enlarge-

ment of his powers. Has the auditor that control over all corporations now of which the government, or any province or municipality thereof, owns a majority of the capital stock?

The CHAIRMAN. General McIntyre has just called my attention to the present law of the Philippine Legislature, which says that "the said jurisdiction shall also extend to all corporations established and organized in accordance with the laws of the Philippine Islands wherein the government of the said islands or any of its branches owns the majority of the stock." That is taken from section 584 of the Revised Administrative Code of the Philippine Islands for 1917. Therefore, we are not changing the law. That provision is in the Administrative Code of the Philippine Islands now. We copied the provision you have just quoted from the Administrative Code of the Philippine Islands and put it in this bill.

Mr. GILBERT. I am somewhat familiar with the social conditions in the Philippine Islands, and I have been trying to enlighten myself as to the legislative situation there. I took the so-called Jones law of August 29, 1916, and H. R. 16868 last night and sought to find the changes in them.

General MCINTYRE. The duties of the auditor of the Philippine Islands are carefully set forth in detail in the administrative code, which was in existence when we passed the Jones law. There was no disposition to change the duties of the auditor, and they put that provision in the Jones law because the auditor was appointed by the President of the United States, and it was apparently deemed advisable to set forth briefly his duties. If you will read the Administrative Code of the Philippine Islands you will learn that the most important duties the auditor of the Philippine Islands performs are those imposed upon him by the Philippine Legislature. For instance, a contract can not be entered into if it involves more than a certain sum of money, which is quite limited, unless the auditor of the Philippine Islands certifies that the money to pay for it is available. In other words, the auditor of the Philippine Islands keeps the government from getting into debt and protects it otherwise. That law was passed by the Philippine Legislature.

Mr. GILBERT. That matter is now controlled by the Philippine Legislature and is subject to appeal. However, if we pass H. R. 16868 it will not be subject to their appeal. In other words, we are putting into an act of the Congress of the United States a provision which is not in the Jones law, but we are now putting it in our law, and thereby removing it from their control. If H. R. 16868 should become a law the people of the Philippine Islands would not have the right to appeal as they have it to-day. Do you understand my distinction?

General MCINTYRE. Yes; but this was in the Jones law.

The CHAIRMAN. We are putting into the Jones law what the Filipinos have already put into their law.

Mr. WILLIAMS. Does the administrative code give the auditor of the Philippine Islands authority to settle claims like this bill does?

General MCINTYRE. Yes; he does it under the law. I personally do not think the word "settle" is in the Jones law. It is in the administrative code, and the auditor does in fact settle these claims now.

The CHAIRMAN. There is no change in that respect?

General McINTYRE. No.

Mr. BACON. The word "settle" is in section 24 of the so-called Jones Act.

Mr. BRUMM. Let us have from H. R. 16868 the section that corresponds to section 24 of the Jones Act.

The CHAIRMAN. H. R. 16868, down to page 9, is in exactly the same words as the Jones Act, with the exception that H. R. 16868 contains the words "and claims." That is the only thing that has been added. The words "and claims" is in the administrative code of the Philippine Islands and we are quoting exactly their language and not putting in something that is not supposed to be there.

Mr. SABARH. Why insert those two words in H. R. 16868?

Mr. BACON. Because the auditor of the Philippine Islands is an appointee of the President of the United States and it is necessary for his duties to be clearly defined.

The CHAIRMAN. General McIntyre and General Hull have just called my attention to the fact that in the present Jones law, in section 25, which would not be amended, are these words:

That any person aggrieved by the action or decision of the auditor in the settlement of his account or claim may, within one year, take an appeal in writing to the Governor General, which appeal shall specially set forth the particular action of the auditor to which exception is taken, with the reason and authority relied on for reversing such decision. If the Governor General shall confirm the action of the auditor, he shall so indorse the appeal and transmit it to the auditor, and the action thereon shall be final and conclusive. Should the Governor General fail to sustain the action of the auditor, he shall forthwith transmit his grounds of disapproval to the Secretary of War, together with the appeal and the papers necessary to a proper understanding of the matter. The decision of the Secretary of War in such case shall be final and conclusive.

That is the Jones Act. Every discussion of the Jones Act indicated that claims were meant to be included. The fact the words "and claims" were put in is one reason we are providing a court of claims in section 27.

Let us now hear Mr. Guevara further.

Mr. GUEVARA. I desire to stress before the committee the fact that no law passed by the Philippine Legislature gives the auditor of the Philippine Islands the right to settle any claim. See section 584 of the Revised Administrative Code of the Philippine Islands of 1927.

While I was a member of the senate of the Philippine Islands I was chairman of the committee that codified the laws of the Philippine Islands. I was very careful to give particular attention to the question of the auditor of the Philippine Islands. I gave his position more attention than is given him by the Jones law. I devoted one whole year to codifying the laws of the Philippine Islands and I gave very special attention to the part of them that referred to the auditor of the Philippine Islands. What we have done in the Philippine Islands is to give the auditor power to settle accounts, but we have not given him power to settle claims. "Claims" has a different legal meaning than "accounts." Of course, every member of this committee who is a lawyer knows that as well as I do. In other words, all accounts are a claim, but not all claims are accounts.

Mr. GILBERT. An account is a contractual relation, and a claim may be a tort as for a personal injury.

Mr. GUEVARA. A claim is an assertion of a personal right to any property or any right; to demand the possession or enjoyment of something rightfully one's own, and wrongfully withheld.

Section 584 of the revised administrative code of the Philippine Islands of 1917 says:

The authority and power of the Bureau of Audits extend to and comprehend all matters relating to accounting procedure, including the keeping of the accounts of the government, the methods of accounting, the examination and inspection of the books, records, and papers relating to such accounts, and to the auditing and settlement of the accounts of all persons \* \* \*.

That does not say "settlement of claims." [Continuing:]

\* \* \* respecting funds or property received or held by them in an accountable capacity, as well as to the examination and audit of all debts and claims of any sort due from or owing to the government of the Philippine Islands in any of its branches.

There is no doubt in my mind that if section 25 of the proposed bill is ever submitted to the Supreme Court for decision, or to any court of justice, that court will render a decision that the word "claims" in section 25 of the Jones Act does not differ in any way from the word "account" used in said section 25. Section 25 of the Jones law has been drafted to say:

that any person aggrieved by the action or decision of the auditor in the settlement of his account or claim may, within one year, take an appeal in writing to the Governor General, which appeal shall especially set forth the particular action of the auditor to which exception is taken, with the reason and authorities relied on for reversing such decision.

The drafter of that portion of section 25 gives similar or analogous meaning to the words "claims" and "account." The drafter said "account or claim" rather than "account and claim." That means that in using the English language he could not find the true words to comprehend his thought and therefore he used alternatively "account or claim." And, as I have pointed out, there is a vast difference between "account" and "claim."

The CHAIRMAN. Your Mr. Fisher, of Manila, is supposed to be one of your best attorneys there?

Mr. GUEVARA. Yes; he is one of the best.

The CHAIRMAN. And he was at one time associate justice of the supreme court there?

Mr. GUEVARA. Yes.

The CHAIRMAN. In his brief he proposed an alternative for the Kiess bill, and by referring to page 41 of his brief it may be observed that he included the words "and claim." Yet Mr. Fisher, who has been on the supreme court bench and made many objections to the other bill, made no objection to the word "claim" in his brief, and then he drew up a bill and put it in. It looks to me that he, from the viewpoint of a lawyer of the Philippine Islands, thought it was right.

Mr. GUEVARA. I have a high regard for Mr. Fisher, but I believe him to be one of those who believes that the power of the auditor of the Philippine Islands should be increased.

The CHAIRMAN. Who would be harmed by the auditor having this power? Is it not a fact that somebody should audit these claims? I am sure you would not have matters in a condition wherein nobody audited them.

Mr. GUEVARA. I would have the auditor of the Philippine Islands audit and examine all accounts pertaining to the government and those corporations established and organized in accordance with the laws of the Philippine Islands wherein the government of the said islands or any of its branches owns the majority of the stock. However, I do not believe it fair to the people of the Philippine Islands that the auditor shall have the power to settle claims arising from the revenues of the Philippine government or its branches or the corporations owned by the government.

Mr. BACON. Who should, in your opinion, audit these claims?

Mr. GUEVARA. The auditor, but he must not settle the claims. There is a great difference.

Mr. BRUMM. As I understand Mr. Guevara, it seems very plain to me that his objection is to the word "settle," for the reason that under the law if the auditor is the final arbiter those people could not even appeal to the court.

The CHAIRMAN. We have provided for an appeal.

Mr. BRUMM. But the commissioner is trying to show that it is inconsistent.

The CHAIRMAN. That is the language of the present law, and we are not changing it. We are simply providing another method of appeal to the court.

Mr. THURSTON. If an appeal is taken and sustained, the claim should not be paid until an appropriation was made for the purpose.

The CHAIRMAN. It would seem that ample safeguards are provided.

Mr. THURSTON. The word "settle" depends upon a subsequent appropriation.

The CHAIRMAN. No, that is not exactly true.

Mr. GUEVARA. That is true unless there is a permanent appropriation to pay it. If there be no permanent appropriation, of course, a special appropriation would have to be made. However, there is a standing appropriation for payment of oversettlements by the collectors of customs and internal revenue. Therefore, the remarks of Mr. Thurston are not appealing, in that there is an appropriation to pay the awards.

The CHAIRMAN. We thrashed this same matter out last June in dealing with H. R. 11617, which contained every objection you are offering. However, as I have said, we did take out the matter about the refund of taxes. Also, the word "decide" was taken out. I wish you would now take up the other questions involved.

Mr. RAGON. Referring to this word "settle," is it not a fact that we have that word in the Porto Rican law also?

Mr. GUEVARA. I do not know.

Mr. RAGON. Has the Comptroller General of the United States that power?

Mr. GUEVARA. No.

Mr. McGUIRE. Section 236 of the Revised Statutes, passed in 1817, says that the comptroller shall audit and settle all claims and accounts whatever in which the Government is concerned, whether as debtor or creditor.

Mr. RAGON. Does not that mean that the comptroller has only a right to negotiate and deal with people rather than the right to pay out the money?

Mr. McGUIRE. The auditor does not pay out money. In the Philippine Islands they do not have "accounts" as we have them here in this country, because they have no disbursing officers to go out and settle claims subject to a subsequent settlement by the auditor.

Mr. RAGON. What is the power of the Comptroller General of the United States?

Mr. McGUIRE. Ever since the passage of section 236 of the Revised Statutes in 1817 the comptroller has had the power to audit and settle all claims and accounts.

Mr. RAGON. That is the power of the Comptroller General?

Mr. McGUIRE. Yes; it has been so for a hundred years.

Mr. THURSTON. I would like to refer Mr. Guevara to the clause on page 7, beginning at line 22, of H. R. 16868, which reads as follows:

No such judgment shall be paid unless there is an existing appropriation out of which such claim might have been paid had it been allowed by the auditor and as to which the determination of the auditor shall be final and conclusive, until it shall have been reported by the Governor General to the Philippine Legislature and a specific appropriation to pay such shall have been made.

Therefore it does require a specific act of your assembly to discharge the obligation.

Mr. GUEVARA. No; not if there is a standing appropriation.

Mr. SABATH. Unless there is an existing appropriation out of which such claim may be met. If there is no existing appropriation, then the Philippine Legislature would have to do something.

The CHAIRMAN. That was one of the strongest objections Mr. Fisher, the attorney, made. He claimed there was no provision for settlement of these claims, and they would have to wait. He argued that if there was a fund provided by the Philippine Legislature, after the auditor had passed a claim and it was settled in favor of the claimant, it could be settled without delay. That is our law here, and we put it in H. R. 16868, as Mr. Guevara will see, because Mr. Fisher called particular attention to the fact that it should be in. There can not be any serious objection to that.

Mr. RAGON. Mr. Guevara, what particular part of H. R. 16868 clears up the Ynchausti case?

Mr. GUEVARA. It does not clear up the Ynchausti case, but H. R. 16868 would set aside the effect of the decision in that case. That is the purpose of H. R. 16868, to set aside the effect of the decision of the Supreme Court in the Ynchausti case.

Mr. KNUTSON. Is there any retroactive section in this bill?

Mr. HUDSON. No; but it would affect future cases.

Mr. GUEVARA. According to the decision of the Supreme Court of the United States, the auditor of the Philippine Islands is subject to mandamus proceedings when he is to perform a ministerial duty. The real purpose of H. R. 16868 is to nullify the legal effect of the decision of the United States Supreme Court in the Ynchausti case.

The CHAIRMAN. Let us hear what General Hull has to say about it.

General HULL. I do not think H. R. 16868, if enacted into law, would modify the decision of the United States Supreme Court in the Ynchausti case. The Ynchausti case is very clear, in the language of Mr. Taft, that where the auditor of the Philippine Islands has purely a ministerial duty to perform he is subject to mandamus the same as other cases. It also makes clear that while the auditor

has the right to inspect and audit these accounts he has not the right to set aside the decision of the constituted authority. H. R. 16868 does not attempt to give the auditor the right to upset the decision of the constituted authority or to reverse the decision of the Supreme Court of the United States, but it would give him the right to audit, which he should have, and if there is anything wrong he is to report to the Governor General, the Philippine Legislature, or the Congress of the United States. It gives him the existing practices and law, but not such power as he claimed he possessed in the Ynchausti case; nor does it in any way affect, so far as I can see, the power of the auditor as set forth in the Ynchausti case.

Mr. RAGON. As I recall, the decision of the United States Supreme Court really sustained the decision of the Supreme Court of the Philippine Islands?

General HULL. In its conclusion but not in its reasoning.

Mr. RAGON. In the Ynchausti case the auditor of the Philippine Islands contended that he had a right to pass upon the question of whether or not this customs fee was properly refunded.

General HULL. He has that right to do. He has the right to audit and examine accounts and if he thinks there is anything wrong it is his duty to bring it to the attention of competent authority and to refer it to the courts. That is existing law. That is in accordance with the decision in the Ynchausti case, and under this bill it would be the same.

Mr. RAGON. Under present law the collector of customs there made a refund to the Ynchausti firm?

General HULL. Yes; the collector submitted a voucher to the auditor for approval.

Mr. RAGON. If the government there desires to appeal, how does it go about it?

General HULL. It could refer the matter to the court by the action of the secretary of finance. Of course, he would not know about it until the auditor had brought it to his attention.

Mr. RAGON. Then they have another way. They do not have to go to the court of first instance. Can they not go direct to the Governor General?

The CHAIRMAN. That is covered by section 25 of the Jones Act.

General HULL. Under existing law the auditor can report to the Governor General or to the secretary of finance that, in his judgment, a decision of the collector of customs is erroneous and harmful to the Philippine Islands, and if that opinion meets the concurrence of the Governor General or the secretary of finance, it is referred to the courts for determination.

Mr. RAGON. I am trying to draw a parallel between the two bills. Is there any appeal from that court?

General HULL. Yes; to the Supreme Court of the Philippine Islands.

Mr. RAGON. Is there any other way one could get around that court without going to the supreme court?

General HULL. In some cases the Supreme Court of the Philippine Islands has original jurisdiction, but not in this kind of case.

Mr. RAGON. How would this same case go up for appeal if we should pass this law?

General HULL. The same as under the old law.



Mr. RAGON. We would not change that, then?

General HULL. No, sir.

The CHAIRMAN. Mr. McGuire, who defended the Ynchausti case, is here and he could probably answer any questions in regard to it.

Mr. RAGON. Let us hear what he has to say.

Mr. McGUIRE. H. R. 16868 does not disturb the principle determined in the Ynchausti case, which is that the auditor of the Philippine Islands may be coerced to perform a ministerial duty. However, it would change the method of procedure in bringing suit. For instance, under the present procedure if the collector refused to allow a claim for refund the only resource would be to go to the court of first instance and bring a suit. Under this proposed law the taxpayer would still have an opportunity of presenting his claim to the auditor, and if refused there he could go to the court of first instance and bring suit. At present an aggrieved person has no administrative remedy. He is forced to go to court at once if the collector does not allow the claim. Under this proposed law he would have an administrative remedy. He could go to the auditor and also to the Governor General in an effort to get the claim adjusted by administrative action. If he could not get the administrative action he may then go into court and bring a suit against the Philippine government instead of against the auditor. This proposed measure would give the claimant more rights than he has under present law.

The CHAIRMAN. The claimant would have two methods instead of one, in that he would be allowed to appeal to the administrative officers as well as to the court.

Mr. McGUIRE. Yes, sir; that is true.

Mr. GILBERT. The United States Supreme Court held that a mandamus would lie. The auditor himself held that he possessed discretionary powers, while the Supreme Court of the United States held that the act was ministerial in character and he must comply. That is to say, the auditor was claiming rights that he did not possess.

Mr. McGUIRE. Yes, sir; that is true.

Mr. RAGON. Will this proposed bill give the auditor of the Philippine Islands more discretionary power than he possesses?

Mr. McGUIRE. Yes, sir; to a certain extent. If the collector of customs refused to allow a claim, it would have to go to the auditor before the claimant could bring suit. Under this proposed law, the auditor could either allow or disallow the claim as he thought the law justified.

Mr. RAGON. Have we a parallel in the United States for this procedure?

Mr. McGUIRE. Yes, sir. We, in the United States, have never permitted any officer to pay any money out of the Treasury without his action being checked over and audited by somebody else. In the beginning of our history, in 1789, we had one auditor and one comptroller, and they audited the accounts. In 1794 we established naval auditors and their title was changed in 1922 to comptrollers of customs. They were stationed at the various large ports in the country, and every act performed by the collector is audited by those comptrollers of customs. The Comptroller General of the United States has certain limited auditing functions connected therewith. It can not plausibly be argued, it seems to me, that a collector in the Philippine Islands should have more authority than

the Congress has seen fit to delegate to a collector in the United States. That is to say, a collector of customs in the Philippine Islands should not be allowed to pass finally upon a claim without his act being reviewed by some one else. We should give sufficient authority to enable him to check it or we should establish a system like we have in the United States.

Mr. RAGON. Have we a parallel for the case that would give the auditor over there the power to pass upon the facts?

Mr. McGUIRE. H. R. 16868 does not give the auditor in the Philippine Islands the power to pass upon facts. He passes upon the law and judges whether the tax is erroneously or regularly collected from the facts as found by the collector. This proposed measure would not disturb the findings of fact. The dispute in the Ynchausti case arose over the question as to whether there were adequate facilities in the Philippine Islands for making repairs to vessels.

Mr. RAGON. Would H. R. 16868 give the auditor of the Philippine Islands power to determine such questions?

Mr. McGUIRE. No; it would not give him power to determine questions of fact, only questions of law.

Mr. RAGON. Would this proposed measure give the auditor of the Philippine Islands the power to settle with a man from whom there might be an appeal?

Mr. McGUIRE. The auditor of the Philippine Islands has that now as respects questions of law but not questions of fact.

Mr. RAGON. In the Ynchausti case the collector gave the claimant a refund. Evidence was taken in an effort to determine whether or not certain repairs could be made to those vessels in the Philippine Islands. I believe they took evidence as to the relative charges for those repairs between the Philippine Islands and China. Has the Comptroller General of the United States in making settlements of claims here authority to go into all these questions and pass upon them before approving a claim?

Mr. McGUIRE. The Comptroller General of the United States has not that authority, although he does possess a limited authority, but such authority is vested in the comptrollers of customs. We do not have comptrollers of customs in the Philippine Islands.

Mr. RAGON. It strikes me that it would be a pretty dangerous practice to give an auditor the right to pass upon questions of fact requiring a technical knowledge such as might be possessed by a collector of customs.

Mr. McGUIRE. This proposed bill would not authorize the auditor of the Philippine Islands to determine questions of fact any more than he has that right now, and he does not have it unless, of course, in cases of fraud or gross mistake.

Mr. RAGON. Has the Government itself a corresponding right of appeal? You spoke a little while ago about the right of a citizen to take certain steps, and I would like to know if the Government may do likewise?

Mr. McGUIRE. Yes; the head of a department may do likewise. That is the same as under present law.

Mr. RAGON. We have the same provisions in the United States?

Mr. McGUIRE. Yes, sir; so far as customs accounts are concerned. In the United States we have the comptrollers of customs and the

Comptroller General of the United States, whereas in the Philippine Islands there would be only the auditor.

Mr. RAGON. Last year did not Mr. Chindblom introduce a bill in the House, and get it through, that absolutely took this very power you are giving him away from him?

Mr. McGUIRE. That bill has not passed the Senate. It is still there. A substitute measure, in fact two substitute measures, have been offered. One would go opposite to the provisions of the House bill.

Mr. RAGON. The House passed the bill, I am sure. It strikes me that if we should make any man a judge of both questions of fact and questions of law, we would make him too powerful.

Mr. McGUIRE. In the Ynchausti case the collector of customs assessed this tax and he submitted the papers to the auditor, who passed upon the claim before the tax was collected. In other words, it was admitted that the auditor had power to pass upon the claim before the tax was collected. The Supreme Court of the United States concluded that the collector of customs could refund the money without the intervention of the auditor. He has to have the sanction of the auditor to collect the money but he does not have to have it to make a refund. We can all see that it would be dangerous to let any man pay money out of the treasury on his own initiative. The law as interpreted by the courts now confers this dangerous power on the collector. The bill proposes to separate the law from the facts.

Mr. RAGON. Is not the court there the best opportunity to protect both the government and the individual?

Mr. McGUIRE. We preserve both sides.

Mr. RAGON. The administration in the Philippine Islands is all right, but that might not be true in the future. We might have some auditor there amenable to the demands of friendship or "pull," and it strikes me that the power you are delegating to the auditor of the Philippine Islands in this proposed measure might be abused.

Mr. McGUIRE. We are not giving additional power on that phase of the matter. The head of the department, who is the minister of finance, can always appeal from the action of the auditor to the Governor General. So may the taxpayer appeal, and they can still go to court if they so desire. This measure would really give an additional protection to the government by allowing the head of the department to appeal from the action of the auditor and the collector. Under the present system there is no appeal except to the courts. An administrative appeal is desirable because all cases can not be taken into court.

The CHAIRMAN. Now let us get back to Mr. Guevara.

Mr. GUEVARA. Now let us take up the question of whether or not H. R. 16868 would set aside or nullify the effect of the decision of the United States Supreme Court in the Ynchausti case. I affirm that it would, with due regard to contrary opinions expressed here this morning. In the first place, according to existing laws of the Philippine Islands, if the collector of customs decided to refund, he has to draw a warrant and have it countersigned by the auditor of the Philippine Islands. But if H. R. 16868 should become law the auditor of the Philippine Islands would have a right to determine whether the decision of the collector of customs is right and legal. That is covered by section 24 of the bill now under consideration. Further-

more, in a strict legal interpretation of section 24 of the bill under consideration it can be maintained before a court that the collector has no right to hear any claims or settle any claims pertaining to his bureau. I will show you in just a minute why I say that.

Mr. RAGON. Is that the auditor or the collector of customs?

Mr. GUEVARA. If a complaint is filed with the collector of customs, that officer according to existing laws, hears testimony and receives evidence and then decides the case. If he concludes that his first decision was illegal or erroneous, he modifies it. If he concludes that it was proper and legal, he confirms it and denies the claim. A copy of the decision is sent to the secretary of finance, who either confirms or revokes the decision, and also to the auditor. The decision of the collector is confirmed by the secretary of finance, and then the aggrieved person may go to court. However, if the collector decides in favor of the claimant and to refund the money collected from that claimant he has the right to refund at once and to execute his decision, but he has to send to the secretary of finance a copy of his decision in order that the secretary may review it and either modify, confirm, or revoke it entirely. If the secretary of finance believes—that the collector's action is wrong he may remove the matter to a court of justice and cause the claimant to contest the decision of the collector and prove his right to collect the money from the government. On the other hand, if H. R. 16868 is enacted into law all such proceedings will be abolished.

The CHAIRMAN. Upon what do you base that conclusion? Where do you find that.

Mr. GUEVARA. I find it in the bill we are now considering. It says:

That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts and claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof. He shall perform a like duty in respect to all government branches, and all corporations of which the government, or any province or municipality thereof, owns a majority of the capital stock.

The CHAIRMAN. That wording, down to the word "thereof" is the same as appears in the Jones Act, except that the words "and claims" are in the bill now under consideration.

Mr. GUEVARA. Yes; that is true. Let me give you an illustration of the case. Assume that I am an importer of goods in the Philippine Islands. The collector of customs is the governmental agency authorized by law to appraise importations and fix the duty I shall pay for goods imported into the Philippine Islands. Let us suppose that the collector of customs has fixed a duty that, according to my own judgment, is not according to law. In this case I have a claim against the collector pertaining to the revenues and receipts of the Philippine government. That claim is not going to be settled by the collector, but is going to be settled by the auditor of the Philippine Islands if the proposed bill is enacted into law. On page 4 of the bill now under consideration it says:

The auditor shall, except as herein provided have like authority as that conferred by law upon the general accounting office and is authorized to communicate

directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

Mr. BRUMM. Is that language also in the Jones Act?

Mr. GUEVARA. With the words "and claims" in section 24 the collector will have no right hereafter, if this bill is enacted into law, to hear testimony covering claims.

Mr. HUDSON. If you will pardon me, gentlemen, Mr. Bartlett, Assistant Postmaster General, is on his way to my office and I will have to request to be excused. However, before going I should like to get the consensus of opinion as to this matter, or I would like to make a motion. It seems to me that we must settle this matter one way or the other.

The CHAIRMAN. I had hoped to settle the matter to-day, but it is now so late that we can not do so.

Mr. HUDSON. If I may, I will move that the committee meet to-morrow morning in executive session to further consider this matter.

Mr. SABATH. Let us not cut off the witness before he shall have concluded.

The CHAIRMAN. No; that is not the intention.

Mr. HUDSON. I move that we meet in executive session to-morrow morning for further consideration of this proposed measure.

Mr. SABATH. I would like to suggest that it is possible that Mr. Guevara may be able to conclude his remarks to-day.

The CHAIRMAN. It is nearly 12 o'clock, and we have given him all of to-day.

Mr. SABATH. But there have been so many interruptions that he has in fact had very little of the time allotted to him.

The CHAIRMAN. It is true that he has been interrupted a great many times.

Mr. RAGON. We have a gentleman before us who represents, in part, 11,000,000 of people and this is a matter that is quite vital to their interests. I do not think it hardly fair to give the gentleman only a very limited time to voice his opposition to this measure.

Mr. HUDSON. I have no desire to cut off the commissioner. I have not interrupted him very much this morning, but have given him a clear field.

The CHAIRMAN. May I suggest, Mr. Hudson, that you make your motion to meet at 10 o'clock to-morrow morning and go into executive session at 11 o'clock. I do feel that we should go into executive session on this matter some time to-morrow.

Mr. SABATH. We should not close the hearings or go into executive session before Mr. Guevara has finished his remarks.

Mr. HUDSON. I will amend my motion in accordance with the suggestion of the chairman.

The CHAIRMAN. Do I hear a second to Mr. Hudson's motion?

Mr. BACON. I second the motion.

The CHAIRMAN. It has been moved and seconded that the committee meet to-morrow morning at 10 o'clock and go into executive session in connection with this bill at 11 o'clock. All in favor of that motion will so signify by saying "aye."

(This motion carried unanimously, except the vote of Mr. Gilbert.)

Mr. GILBERT. I demand a roll call.

The CHAIRMAN. Do you desire a roll call?

Mr. GILBERT. Yes; I do.

Mr. BRUMM. Are we going to close the hearings with what information we have?

The CHAIRMAN. I suppose some member will raise the point of order that we have no right to sit while the House is in session after 12 o'clock and we will have to stop at that time. Personally I am willing and even anxious to stay and hear Mr. Guevara.

Mr. BACON. I would be very glad to remain and hear Mr. Guevara if he cares to go on.

Mr. HUDSON. I imagine that some members of the committee will desire to go to the House at 12 o'clock, inasmuch as the appropriation bill for the District of Columbia is up for consideration to-day.

The CHAIRMAN. So far as the chairman is concerned, he is willing to continue this meeting.

Mr. BRUMM. I am for Mr. Hudson's motion if we may go ahead and give Mr. Guevara a chance to conclude his presentation.

The CHAIRMAN. We will give him a chance by hearing him further to-day and to-morrow.

Mr. GILBERT. I am on the Committee on the District of Columbia and there are some items in the appropriation bill for the District of Columbia, which comes up to-day, in which I am interested. However, I shall not insist upon a roll call, but I would like to know the consensus of opinion of the committee, because many of them know little more about this matter than I do.

The CHAIRMAN. Mr. Gilbert, there was discussion at great length about this matter before you became a member of the committee.

Mr. GILBERT. I understand that.

Mr. RAGON. H. R. 16868 makes four or five bills that have been introduced concerning clarifying and amending existing laws relating to the powers and duties of the auditor for the Philippine Islands, and it is only fair to the committee that we know all about this subject before being asked to form a conclusion.

I shall have to leave at this time. I understand it is the chairman's intention to call up this bill for consideration next Wednesday?

The CHAIRMAN. Yes; that is the plan.

Mr. RAGON. I want to do all I can to help you get it up.

The CHAIRMAN. Thank you very much.

Mr. RAGON. However, I desire to be present at the committee's meetings and hear these things and develop things that I hope we may be able to get in our search for a correct solution.

Mr. GILBERT. I think we ought to have an opportunity between now and next Wednesday to get the necessary information, such as I am seeking to get now, to inform the House thoroughly in regard to this matter.

Mr. RAGON. If there is nothing wrong it will not hurt to investigate the matter, and if there is something wrong the matter should be investigated. I suggest that we adjourn until 10 o'clock to-morrow morning, at which time the commissioner may conclude his remarks. I can not see any objection to that.

The CHAIRMAN. That motion has carried.

Mr. KNUTSON. I make the point of order that the committee has already passed upon that question.

The CHAIRMAN. While you were out of the room we voted to meet to-morrow morning at 10 o'clock and at 11 o'clock to-morrow morning go into executive session.

Mr. RAGON. I will make the point of order that we have no right to sit after 12 o'clock.

Mr. GILBERT. I withdraw my request for a roll call of the committee.

The CHAIRMAN. Let us continue to hear Mr. Guevara.

Mr. GUEVARA. I was discussing the manner in which H. R. 16868 would set aside and nullify the decision of the Supreme Court in the Ynchausti case. I was saying that this bill would preclude the collector of customs from hearing any case, and would confer that authority upon the auditor of the Philippine Islands. I say that the insertion of the words "and claims" on page 2, line 1, of H. R. 16868, means any claim against or in favor of the revenues and receipts from whatever source of the Philippine Government and of the provincial and municipal governments of the Philippines. An importer in the Philippine Islands takes his goods to the collector, who assesses the duty. Suppose there should be a disagreement between the collector of customs and the importer. Then the importer has a claim against the bureau of customs, and that claim would under this proposed bill be examined and settled by the auditor of the Philippine Islands. How is he going to settle the claim? On page 4, line 6, of H. R. 16868 it says:

The auditor shall, except as herein provided, have like authority as that conferred by law upon the General Accounting Office, and is authorized to communicate directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

On page 4, line 23, of H. R. 16868 is inserted the following provision:

In the execution of their duties the auditor and the assistant auditors are authorized to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of these provisions, may issue subpoenas and enforce the attendance of witnesses, as now provided by law.

The CHAIRMAN. Please tell the members of the committee that what you have just read is word for word in accordance with present law.

Mr. GUEVARA. Yes; it is the same as the present law except the words, "and claims." The meaning of this provision will be the same as the Jones law, but with the words "and claims," added, the legal effect will be different.

The CHAIRMAN. You do not question the right of Congress to put it in?

Mr. GUEVARA. No; it has a right to pass this bill, and it has a right to pass a bill abolishing the Legislature of the Philippine Islands. But what I am discussing is whether this bill should be passed and whether it would be wise to pass it.

For what purposes would witnesses be summoned by the auditor to hear and try the claim?

An importer has a claim against the collector of customs on account of a disagreement about duty collected. That disagreement shall hereafter be heard by the auditor rather than by the collector of customs.

There is something of more far-reaching importance to this bill. The auditor of the Philippine Islands will have power to hear all

claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines.

Again, H. R. 16868 would make the auditor of the Philippine Islands the treasurer of 48 Provinces and 89 municipalities of the Philippine Islands.

The CHAIRMAN. How do you arrive at that conclusion?

Mr. GUEVARA. According to H. R. 16868 the auditor has the authority and jurisdiction not only to examine, audit, and settle all claims arising from the revenues and receipts from whatever source of the Philippine government, but also all claims arising from the revenues and receipts of whatever source of the provincial and municipal governments. What revenues are those? They are, among others, taxes on real estate. Every year arise thousands of claims by taxpayers on account of assessments against real estate. The present law in the Philippine Islands places the assessment of real estate in the hand of the provincial assessor, who is appointed by the provincial treasurer. The provincial assessor examines and inspects real estate and assesses according to the value of it. The owner of the real estate pays the tax according to the assessment rendered. The taxes are fixed by law. Let us suppose that I am the owner of real estate and have a claim against the assessment by the provincial assessor. My claim will not go, as now, to the municipal board, but will go to the auditor, and for that purpose, he is authorized by this bill to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of the provisions of H. R. 16868, may issue subpoenas and enforce the attendance of witnesses. Therefore a taxpayer living, for instance, in Alaska, has to come to Washington, where the Comptroller General lives. Likewise a man in my country would have to go to Manila and submit his claim to the auditor there. The auditor would summon witnesses from Alaska to give testimony to aid in a determination as to whether or not the assessment was excessive or illegal.

The CHAIRMAN. That is not accurate. Let me read you what section 597 of the Revised Administrative Code of the Philippine Islands of 1917 has to say:

Each district auditor shall examine and settle the accounts of the provincial, municipal, township, and settlement treasurers and other officers of such branches of the government, within the district assigned to him. In the exercise of this function the district auditor shall have exclusive original jurisdiction, and in such matters his powers shall be the same as those exercised by the insular auditor in regard to insular accounts proper.

Mr. GUEVARA. Accounts, but not claims.

The CHAIRMAN. It says:

In the exercise of this function the district auditor shall have exclusive original jurisdiction, and in such matters his powers shall be the same as those exercised by the insular auditor in regard to insular accounts proper.

The district auditor would settle these. A man would not have to go to Manila from a remote section of the country to have the question determined. Your illustration about bringing a man from Alaska is erroneous, because the matter could be settled by the district auditor in the man's own town.

Mr. SABATH. Under the present law it could be, but the witness feels that under the proposed law that power would be withdrawn and vested in the auditor general.



The CHAIRMAN. I just read from Philippine law.

Mr. SABATH. I know that; but you would modify that law by this proposed measure.

The CHAIRMAN. No; we would not change that.

Mr. GUEVARA. When a law of the Legislature of the Philippine Islands is in conflict with a law of Congress, the Philippine law is of no effect.

Mr. McGUIRE. The district auditors in the Philippine Islands are subordinates of the auditor of the Philippine Islands and are stationed at various places throughout the islands to perform the local auditing for the auditor of the Philippine Islands. This proposed law would not disturb that arrangement at all.

Mr. RAGON. As I understand, Mr. Commissioner, your contention is that when the words "and claims" are inserted they take this matter beyond the jurisdiction of the district auditors.

Mr. GUEVARA. Yes, sir.

Mr. RAGON. Do you not think that when you give the auditor of the Philippine Islands authority and jurisdiction over claims that it is necessary to give the district auditors the same jurisdiction?

Mr. GUEVARA. The Supreme Court says that an authority vested in an officer can not be delegated by that officer.

Mr. McGUIRE. Mr. Ragon, your question is answered by this:

In the exercise of this function the district auditor shall have exclusive original jurisdiction, and in such matters his powers shall be the same as those exercised by the insular auditor in regard to insular accounts proper.

Mr. RAGON. That is under present law.

Mr. McGUIRE. But put "claim" in and it would go right down to the district auditors under the Philippine statute.

Mr. RAGON. If it is essential that these district auditors have this authority, why not amend this bill accordingly? If the auditor of the islands could not delegate his authority to the district auditors, why not amend this bill to direct him to do so.

Mr. McGUIRE. Under its provision the right and duty would go down to the district auditors.

Mr. RAGON. If not, we should amend it to do so.

Mr. GUEVARA. As I have said, if a law of the Philippine Islands is in conflict with a law of the United States, the law of Congress shall prevail. It is elemental that when a specific authority is given by law to an official, that authority can not be delegated to another unless it is so provided.

Mr. RAGON. That point strikes me as being very important, and I think we should give it careful consideration.

Mr. BRUMM. What, in your opinion, does "claim" refers to if not to assessments, taxes, and revenue collections from imports? This proposed bill speaks of Provinces and municipal governments and corporations, of which the government or Provinces or municipalities own a majority of the capital stock.

Mr. McGUIRE. As a matter of fact, all accounts and claims settled to-day are claims. Accounts in the accounting law refer to payments made by disbursing officers. They come up to the auditor or the Comptroller General for settlement. There are no disbursing officers in the Philippine Islands who make payments before the claims are audited. Every demand against the treasury of the Philippine Islands is passed upon by the auditor before it is

paid, therefore it is a claim. Putting in the words "and claims" does not change the law at all.

Mr. SABATH. If that be true, why not eliminate it?

Mr. McGUIRE. Because the Supreme Court of the Philippine Islands has held that the auditor's jurisdiction does not extend to claims.

Mr. BRUMM. Suppose there was a dispute as to accounts in a bank, if the auditor of the Philippine Islands has to pass upon the accounts of certain corporations in which the Government owns stock, would he have anything to say in a matter between a citizen of the Philippine Islands and the bank of the Philippine Islands?

Mr. McGUIRE. Yes, sir; if the government owns a majority of the stock. It does own all the stock, I believe.

Mr. BRUMM. Would he pass upon that account in the bank?

Mr. McGUIRE. Yes; he would pass upon that, but where the government did not own a majority of stock in the bank he would not do so.

In 1921 Congress passed a law authorizing and directing the Comptroller General to audit the accounts of the Emergency Fleet Corporation, which is a corporation in the same sense the Philippine National Bank is a corporation. I see no objection to that. The Philippine bank, from its history, needs somebody to audit it. The word "claim" should be inserted in this measure in order to meet the decision of the Supreme Court of the Philippine Islands in the Ynchausti case.

Mr. WILLIAMS. That is something that really does change the law.

Mr. McGUIRE. No; it puts into the law what was supposed to be there in the beginning. In the treatment of the words "accounts" and "settlement" we use them interchangeably. In section 25 reference is made to "claims" and "accounts." I do not think that changes it, but it merely clarifies it and saves disputes over there.

Mr. GUEVARA. I believe I have sufficiently demonstrated my contention that the insertion of the word "claim" would give the auditor of the Philippine Islands more power than is intended he shall have in the former bills introduced by the chairman.

I shall now discuss, with the committee's permission, another aspect of H. R. 16868.

Mr. RAGON. I would suggest that this matter go over and that we adjourn at this time.

The CHAIRMAN. I think that would be a wise thing to do.

Mr. KNUTSON. Mr. Guevara, how much time will you require to conclude your presentation? I think you should be given ample opportunity to present your case fully. I would not like to see the point raised that you were not given a full and fair hearing.

Mr. GUEVARA. I will discuss the control of the auditor of the Philippine Islands over corporations. I calculate that I shall require more than two hours further. As you gentlemen will appreciate, I have been interrupted very much this morning.

Mr. WILLIAMS. The gentleman can not occupy the floor for an hour and a half without somebody taking part of his time.

The CHAIRMAN. No; because those interruptions serve to develop the things we desire to know.

Mr. RAGON. I will renew my point of order that we have no right to sit after 12 o'clock when the House is in session.

The CHAIRMAN. The committee will adjourn at this time to meet to-morrow morning at 10 o'clock in accordance with the resolution agreed to.

(Thereupon, at 12.15 o'clock p. m., the committee adjourned to meet at 10 o'clock a. m. Saturday, February 5, 1927.)

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Saturday, February 5, 1927.*

The committee this day met at 10.15 o'clock a. m., Hon. Edgar R. Kiess, chairman, presiding, for further consideration of H. R. 16868, which is a bill to clarify and amend existing laws relating to the powers and duties of the auditor for the Philippine Islands.

The CHAIRMAN. When we adjourned yesterday Mr. Guevara was in the midst of a statement, and we will ask him to continue his statement at this time.

**STATEMENT OF HON. PEDRO GUEVARA, A RESIDENT COMMISSIONER OF THE PHILIPPINE ISLANDS—Continued**

MR. GUEVARA. Mr. Chairman.

The CHAIRMAN. Mr. Guevara.

MR. GUEVARA. Yesterday I made the statement that I hoped in the near future to find my way to appearing before this committee and advocating something bearing the name of the distinguished chairman. It is believed I will have that opportunity very soon, because of the bill you introduced yesterday. I am glad, for once, I agree with you on the Philippine legislation.

The CHAIRMAN. That will be fine.

MR. GUEVARA. There will be no difference of opinion between you and me on that bill.

The CHAIRMAN. You are for that bill I introduced yesterday?

MR. GUEVARA. Mr. Chairman, when we adjourned yesterday I was discussing the point that H. R. 16868 would, if enacted into law, set aside and nullify the decision of the Supreme Court of the United States in the Ynchausti case; but some of the gentlemen present challenged that statement, maintaining that the bill would not in any way modify the decision of the Supreme Court in that case. I have a printed copy of the decision of the Supreme Court in the Ynchausti case, and I will endeavor to demonstrate that my statement was correct. The Supreme Court of the United States was even stronger in its opinion that giving the power to the auditor for the Philippine Islands to review the classifications of goods already classified by the collector of customs would be incongruous with existing law in the Philippine Islands.

The decision of the Supreme Court in the Ynchausti case contains a complete history of the accounting system implanted in the Philippine Islands since the American occupation of that country. That decision was written by Mr. Chief Justice Taft, who was, you will recall, appointed by President McKinley president of the first civil commission sent to the Philippine Islands in 1900. Later Mr. Taft was appointed Governor General of the Philippine Islands; and I

want to say now that Mr. Taft, as Governor General, deserved and received the most sincere esteem and love of the people of the Philippine Islands, despite differences of opinion as to the fundamental problem of the Philippine Islands. To-day we regard him as one of the very best friends of the Philippine Islands. After Mr. Taft left the Philippine Islands he was appointed by the President of the United States, Secretary of War, which department deals with the Philippine questions. Later the American people, rewarding his eminent service to his country, elected him President of the United States.

The Supreme Court of the United States, in the case of *Wright v. Ynchausti & Co.*, said:

The unchanged policy as to such decisions is that appeal from the insular collector's action should be left to the taxpayer, on the one hand, and to the head of finance department on the other, and if taken, should be considered by the courts; and that failing such appeal, the action of the insular collector should be final. It would be incongruous to provide for appeal to the courts at the instance of either the importer or the head of the department, and in the absence of such appeal by either, to have a review by the auditor. It would delay decision of the legality of the classification for a year. It would create two tribunals of appeals in respect to classification which might cause embarrassing and confusing conflict.

That is the decision of the Supreme Court of the United States. Further on the same decision says:

In view of this legislative history, it is not difficult to reach a conclusion and to define what the function of the auditor of the islands in such a case as this is. To take out of the treasury on appropriation, a warrant has to be drawn by the head of the bureau having the payment of the claim in charge and the warrant must be countersigned by the insular auditor, before it is paid; but where the insular auditor is not vested with administrative discretion to pass upon the merits of the claim for which the warrant is drawn, his only function is to determine whether the warrant is drawn by the proper officer upon the decision of the proper tribunal, and is applicable to an existing appropriation, and, having been satisfied as to these preliminaries, his duty is merely ministerial.

This Ynchausti decision of the Supreme Court would be nullified and set aside by the enactment of H. R. 16868 into law. Why? Let us turn to page 7, line 22, of H. R. 16868, and read what it says. It says:

No such judgment shall be paid unless there is an existing appropriation out of which such claim might have been paid had it been allowed by the auditor and as to which the determination of the auditor shall be final and conclusive, until it shall have been reported by the Governor General to the Philippine Legislature and a specific appropriation to pay such shall have been made.

Here is the gist of the whole thing—"had it been allowed by the auditor." I repeat, "had it been allowed by the auditor, and as to which the determination of the auditor shall be final and conclusive." Therefore, the determination of the auditor, and the authority given to the auditor, are superior to the judgments rendered by the courts.

Now you may call my attention to the fact that after the word "conclusive," which is the first word on page 8, line 1, H. R. 16868, there appear these words:

Until it shall have been reported by the Governor General to the Philippine Legislature and a specific appropriation to pay such shall have been made.

Mr. HUDSON. If I may interrupt you right there, where does that work an injustice? It seems to me such is only safeguarding a

definite procedure there. Personally I see no usurpation of power or change.

Mr. GUEVARA. I will come to that point in a little while. I will show you why this section of the bill now in consideration would make the auditor practically superior to the courts.

Mr. SABATH. Somebody yesterday raised the question that no such claim could be paid unless an appropriation should be made by the legislature, and therefore, the legislature would have the final say. The commissioner has just read from page 7 to show that in certain cases where there might be an existing appropriation the auditor could pay regardless of appropriations by the legislature.

Mr. GUEVARA. I believe I can show this committee that this provision, if enacted into law will actually set aside the decision of the Supreme Court in the Ynchausti case.

The CHAIRMAN. I want to call attention to the fact that in the bill Mr. Fisher drew he had this particular language, and it was put in our bill largely to take care of a serious objection by him. He said it might delay for a long time the payment of claims that should be paid promptly, and there was no reason why, if money was available by an appropriation of the legislature to pay certain claims which the auditor had passed, the claim should not be paid promptly.

Mr. GUEVARA. I am not objecting to that. I think it is fair and just that whenever a claim has been settled and determined by the competent tribunal it ought to be paid. I am discussing this provision in the light of its giving the auditor for the Philippine Islands a standing above the court.

Mr. KNUTSON. You think this provision would make the auditor superior to your courts?

Mr. GUEVARA. Yes, sir; absolutely; and I will show you why.

The CHAIRMAN. But you could always appeal from a decision of the auditor.

Mr. GUEVARA. After the claim has been decided by the court.

The CHAIRMAN. You would not stop payment of the claims after they had been passed.

Mr. GUEVARA. That is what I will discuss.

Mr. HUDSON. Does the paragraph on pages 7 and 8 of the bill under consideration not do one thing in two ways? A judgment may be paid if there is an existing appropriation, and then it provides that a judgment shall be reported by the Governor General to the legislature and a specific appropriation made.

Mr. GUEVARA. No.

Mr. HUDSON. The bill says so.

Mr. KNUTSON. The judgment may be paid if the money is available.

Mr. GUEVARA. I will explain why it can not be paid without the determination and authority of the auditor.

Mr. HUDSON. I rather think you are wrong.

Mr. GUEVARA. No. I will show you.

Mr. KNUTSON. Mr. Commissioner, you have the reputation of being a good lawyer in the Philippine Islands; now I want you to go ahead and explain this to us.

Mr. GUEVARA. Thank you. That section says:

No such judgment shall be paid unless there is an existing appropriation out of which such claim might have been paid.

The condition is that—

there is an existing appropriation.

That is the first condition. The second condition is:

Had it been allowed by the auditor and as to which the determination of the auditor shall be final and conclusive.

Those are the words.

Mr. THURSTON. Do you have a claims fund in the Philippine Islands from which claims are paid?

Mr. GUEVARA. Yes.

Mr. THURSTON. Or does the legislature make specific appropriations.

Mr. GUEVARA. There is a claims fund.

Mr. THURSTON. If the Legislature of the Philippine Islands should allow the money in that fund to run out, and not make further appropriations, it could control the situation in that manner.

Mr. GUEVARA. It is true that the legislature has to put up the money.

Mr. THURSTON. If the legislature should allow the claims fund to become depleted, no judgment could be paid from it. It seems to me the matter would be within perfect control of the legislature.

Mr. GUEVARA. According to H. R. 16868, there is no check to the determination of the auditor.

Mr. THURSTON. But if you did not have money in the claims fund to pay judgments, it would take a specific act of your legislature to provide that money, as I understand?

Mr. GUEVARA. Yes; that is true.

Mr. THURSTON. Therefore, you could control the situation by allowing the accumulation of funds to run low.

Mr. GUEVARA. Suppose there is a permanent appropriation from which these judgments may be paid; how could the legislature then control the payment?

Mr. THURSTON. But if the legislature did not provide the funds to liquidate the judgments, the judgments could not be paid.

Mr. GUEVARA. But we have a permanent appropriation to pay these judgments.

The CHAIRMAN. How would this provision you are discussing change your present law?

Mr. GUEVARA. We have a permanent appropriation to pay the claims.

The CHAIRMAN. Are they now paid upon certificates of the auditor of the Philippine Islands?

Mr. GUEVARA. Yes.

The CHAIRMAN. I do not see how this provision we are discussing would change the procedure.

Mr. GUEVARA. No; it is to change the authority, not the procedure. It changes the authority as to the determination of the claim. I will be able to show you how it will change the authority as to the determination of payment of the claim.

Mr. HUDSON. Perhaps there is a stumblingblock in the words "had it been allowed by the auditor." The commissioner thinks that gives an authority over the judgment.

Mr. GUEVARA. Yes; absolutely. There is no other construction that may be given to it.

Mr. HUDSON. That designates the fund from which the claim shall be paid after the judgment is rendered.

Mr. GUEVARA. No; it says, "as to which the determination of the auditor shall be final and conclusive." The auditor must counter-sign the warrant and he would determine whether it was legal.

Mr. SABATH. And that would be final and conclusive under this bill?

Mr. GUEVARA. Yes, sir.

Mr. SABATH. And therefore the auditor would be placed in a position where he would have more authority and jurisdiction than the courts?

Mr. GUEVARA. Yes, sir.

Mr. KNUTSON. Perhaps that language is ambiguous.

General HULL. I do not think so. It was drawn by Judge Fisher to take care of this situation: The court gives a final judgment, then the question arises whether there is an existing appropriation out of which that judgment may be paid or whether it shall be certified to the legislature for a special appropriation. That is the only question. Somebody has to decide that, whether there is an existing appropriation out of which the payment may be made or whether the judgment shall be certified to the legislature for a specific appropriation.

Mr. GUEVARA. The language used by this provision does not—

General HULL (interposing). The auditor can not review a court decision.

Mr. HUDSON. The purpose is to designate the fund from which the judgment shall be paid. If the auditor could allow the judgment under process of law, it could be paid from that fund. On the other hand, it might be necessary to certify the judgment to the legislature for an appropriation.

General HULL. The idea Judge Fisher had in mind was to delegate to the auditor determination as to whether a judgment was one that may be paid out of an existing appropriation, or whether it was one requiring a specific appropriation.

Mr. THURSTON. It will take an act of the legislature to provide money for the payment of these claims, and therefore their payment remains within control of the legislature.

Mr. GUEVARA. That is not expressed by the bill. Any lawyer, I believe, will interpret this law as prerequisite to the payment of the judgment that there should be an existing appropriation, and that the payment be allowed and determined by the auditor.

The CHAIRMAN. You may take the word of the chairman and of General Hull that there was no such idea in our mind. If your construction may be placed upon that provision, that provision will be changed, because we did not intend that the auditor should be given powers superior to the courts or over the courts.

Mr. GUEVARA. I have been trying not to use my training as a lawyer to seek technicalities for the purpose of making systematic opposition, but, as a lawyer, I would prevent when this bill is enacted and submitted to the court for decision a misinterpretation of the

intent of Congress in its enactment. I may be a judge at some time in the future, and in that position be called upon to pass upon the language in this bill. Then I would construe this law as I understand it according to the words used. We should get this right. That is the reason I wish to say to the committee that I am not taking advantage of technicalities simply to make a systematic opposition. My intention is to help the committee to pass a good law, if any law is to be passed.

The CHAIRMAN. You want a law in proper form and as perfect as is possible?

Mr. GUEVARA. Yes. I will pass to another point. Existing laws in the Philippines vest certain authority in the manager and board of directors of the Philippine National Bank, and in certain corporations owned by the government, including the railroad. The bill now in consideration would give the auditor for the Philippine Islands jurisdiction and authority over the manager and the board of directors of the bank, the manager and board of directors of the Manila Railroad, and the managers of all those corporations owned by the government. That would be a wonderful job for the auditor for the Philippine Islands. He would be almost supreme.

Section 24, page 2, of the bill now under consideration, contains two parts, one referring to the authority of the auditor to pass upon all claims pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines. The other part refers to the authority to be given to the auditor for the Philippine Islands to pass upon all claims pertaining to the revenues and receipts from whatever source of all corporations of which the government, or any Province or municipality thereof, owns a majority of the capital stock.

The CHAIRMAN. What is the objection to that?

Mr. GUEVARA. We have more confidence in the courts than we have in the auditor for the Philippine Islands. That has been taught us by the American people—that we must hold in high regard and veneration our courts of justice.

Mr. KNUTSON. How are those courts in the Philippine Islands?

Mr. GUEVARA. Our judicial system and judges have been praised by many American jurists, and we are proud of it, and the American people ought to be proud of the judicial system that has been implanted in the Philippine Islands.

The CHAIRMAN. But you can always appeal to the courts.

Mr. GUEVARA. Why make the auditor for the Philippine Islands a court of first instance? Is the auditor of the Philippine Islands a better man than the manager of the public utilities, the manager or the board of directors of the Philippine National Bank? Is the auditor for the Philippine Islands a better man than the managers and directors of these various corporations of which the government owns a majority of the capital stock? In short, is one man better than 12 men?

The CHAIRMAN. Sometimes to have one man watch 12 men is a good thing.

Mr. GUEVARA. That may be true. The Governor General of the Philippine Islands may be better than the Philippine Legislature. The President of the United States may be better than the Congress



of the United States. The efficiency of a democracy is still a debatable question; and sometimes a monarchy is better than a republic.

The CHAIRMAN. The expenses of the President of the United States are examined and audited by the Comptroller General of the United States.

Mr. GUEVARA. The Comptroller General of the United States may have the right to pass upon any claims referring to the office of the President of the United States. He may have the right to pass upon practically any claim of or against the United States; but the Comptroller General of the United States may be impeached by the Congress. On the other hand, the auditor for the Philippine Islands is and will be immune from impeachment. He is outside of the control of the people there and outside of the control of the legislature.

Mr. BACON. He can be impeached by the Congress of the United States.

Mr. GUEVARA. He is 10,000 miles from the Congress of the United States, and should American occupation of the Philippine Islands last a hundred years, you may rest assured that no official in the Philippine Islands appointed by the President of the United States will ever be impeached. It is hard to get an impeachment in any Congress.

Mr. DALLINGER. It would be very much easier to prosecute an impeachment in the Legislature of the Philippine Islands.

Mr. GUEVARA. I do not know about that. It is according to the merits.

Mr. DALLINGER. You do not think the Congress of the United States would be influenced by the merits?

Mr. GUEVARA. I do not know. But how can you be influenced by the merits if you are 10,000 miles from the Philippine Islands and the seat of action is here and you depend upon information given you by your own agencies?

Mr. DALLINGER. There is nothing to prevent witnesses being summoned in the Philippine Islands and brought to the United States to give testimony.

Mr. GUEVARA. Yes; maybe. But it is rather hard to call witnesses from the State of Pennsylvania to Washington. [Laughter.]

The CHAIRMAN. If everything is all right, why do you resent the control, which you apparently do resent, of this auditor over the same kind of accounts that we in the United States submit to our Comptroller General?

Mr. GUEVARA. I do not oppose and will not oppose so long as I am a representative of the Philippine Islands in the United States any authority given to the auditor to examine and audit the accounts of the Philippine government, because that auditing and examining protects the people there; but I do oppose and will continue to oppose any plan to give him judicial power of settling not only accounts but also claims. The Comptroller General here does not exercise such unlimited powers.

Mr. HUDSON. Your desire is simply that you do not want the auditor for the Philippine Islands who passes upon these claims to have the final power of arbitration and settlement.

Mr. GUEVARA. I would not give him power to settle claims. I would give him power to examine, audit, and settle accounts, but we have an adequate safeguard in the courts as to claims. We do not

want to be protected as regards claims by the auditor for the Philippine Islands, because we have judges there for that purpose.

The CHAIRMAN. You can always appeal to the judges.

Mr. GUEVARA. But why give judicial power to incompetent persons. Why give judicial power to the auditor for the Philippine Islands when he is not even a lawyer? He is supposed to be an accountant. I do not know whether he is an accountant or not. He is supposed to be efficient in numbers, but he is not supposed to be efficient in reviewing codes, investigating the history of law, and interpreting law. Why give a man like that judicial power to pass upon claims which are proper objects for judicial consideration? Therefore, we require the qualifications of lawyer to be a judge. He must have studied law. On the other hand the qualifications for an auditor is that he shall be an accountant. He must have studied figures.

The CHAIRMAN. I desire at this time to read into the record section 236 of the Forty-second Statute, because I think it is pertinent to the matter we are discussing now. It says:

All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor, shall be settled and adjusted in the General Accounting Office.

The CHAIRMAN. That is what we wrote into the law creating the office of the Comptroller General of the United States. I do not see how that is different from what we are trying to do in the Philippine Islands. In fact, since section 24 of the organic act provides that the insular auditor shall have the same jurisdiction as the auditors and Comptroller of the Treasury, now the Comptroller General, I think he now has that authority.

Mr. BACON. As a matter of fact it does not go that far.

Mr. SABATH. That is not true, because we have a committee on claims in the House through which pass thousands and thousands of claims; and on the other hand the claims are settled by the boards in the respective departments.

Mr. GUEVARA. Continuing to read the Ynchausti decision, it says, "We may add that such a conclusion is quite in keeping with the functions of the Auditors of the Treasury and the Comptroller of the Treasury of the United States, a comparison which is constantly used in the Philippine statutes. Neither the Auditors nor the Comptroller of the Treasury of the United States is vested with authority to decide questions of classification of duties under tariff acts." The same power is proposed to be given to the auditor of the Philippine Islands under the present bill.

Mr. THURSTON. What discretionary power or authority would that vest in the auditor for the Philippine Islands? The only funds he could pay back without an appropriation of the Legislature of the Philippine Islands would be on account of disputes arising under administration of the tariff acts. Any contractual claim would have to go to the Legislature of the Philippine Islands for an appropriation.

Mr. GUEVARA. Yes.

Mr. THURSTON. Therefore the objection you are entering here simmers down to this: Allowing the auditor for the Philippine Islands the decision to make tax refunds.

Mr. GUEVARA. No; I would not give him the power to pass upon claims, and I have read you the legal definition of "claim."

Mr. THURSTON. Even if he were empowered to pass upon something in the nature of a claim, only those claims relating to tariff acts could be paid by him, and all others would have to go to the general assembly for an appropriation.

Mr. GUEVARA. No. If there is an existing appropriation there is no necessity for the legislature to appropriate money to pay the claims. That is a permanent appropriation which has been in force for the last 24 years. It is not renewed each year by the legislature.

Mr. THURSTON. You have no funds in the Philippine Islands to pay judgments other than those coming through your tariff acts.

Mr. GUEVARA. We have a permanent fund to pay claims against customs duties, internal revenues, etc.

Mr. THURSTON. But that is all. You have no fund from which to pay general claims; and your objection is confined to those claims arising under customs claims.

Mr. GUEVARA. Yes.

The CHAIRMAN. Going back to the question of placing the auditor for the Philippine Islands above the courts, General Hull has just suggested an amendment in line 23 and line 24, page 7, of H. R. 16868. The general suggests that that subdivision read as follows:

No such judgment shall be paid unless there is an existing appropriation out of which such judgment might be paid and as to which the determination of the auditor shall be final and conclusive, until it shall have been reported by the Governor General to the Philippine Legislature and a specific appropriation to pay such claim shall have been made.

That makes it clear as to what the determination of the auditor shall be.

I will now read into the record section 523, Forty-second Statutes, Title IV, concerning comptrollers of customs. It says:

Naval officers of customs now in office and their successors shall hereafter be known as comptrollers of customs.

Comptrollers of customs shall examine the collector's accounts of receipts and disbursements of money and receipts and disposition of merchandise and certify the same to the Secretary of the Treasury for transmission to the General Accounting Office. They shall perform such other duties as the Secretary of the Treasury may from time to time prescribe, and their administrative examination shall extend to all customs districts assigned to them by the Secretary of the Treasury.

Comptrollers of customs shall verify all assessments of duties and allowances of drawbacks made by collectors in connection with the liquidation thereof. In cases of disagreement between a collector and a comptroller of customs, the latter shall report the facts to the Secretary of the Treasury for instructions.

This section shall not be construed to affect the manner of appointment, the terms of office, or the compensation of any such officer as now provided by law, nor to affect the provisions of the Budget and Accounting Act, 1921, approved June 10, 1921.

Mr. GUEVARA. I believe the Supreme Court of the United States has interpreted the duties and rights of the collector of customs in the Ynchausti case. Speaking with reference to authority to decide questions of classification of duties under tariff acts, the United States Supreme Court says:

Those are considered and disposed of, first by the collectors of customs, then by appeal after written notice to a Board of General Appraisers and then by a review by the Court of Customs Appeals. (Act of June 10, 1890, 26 Stat. 131, 136, ch. 407, sec. 12; act of May 27, 1908, 35 Stat. 403, 406, ch. 205, sec. 3; act of

August 5, 1909, 36 Stat. 11, 98, ch. 6, sec. 28; act of September 21, 1922, 42 Stat. 858, 970, ch. 356, Title IV, sec. 515.) Under certain limitations a further review may be had in this court.

That is the whole procedure about the collection of duties in the United States. Under the bill now under consideration the auditor for the Philippine Islands would be vested with the authority to pass upon and settle all accounts and claims pertaining to the revenues and receipts from whatever sources of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or of property pertaining to or held in trust by the government or the Provinces or municipalities thereof. He would also perform a like duty in respect to all Government branches and all corporations of which the Government, or any Province or municipality thereof, owns a majority of the capital stock.

I gave to the committee yesterday morning the legal definition of the word "claims," by the Supreme Court of the United States and of many States of the Union. That is in the record.

What claims may arise in the conduct of the business of the Philippine National Bank? Suppose I borrow money from the Philippine National Bank with the guaranty of my real estate, and with the obligation on my part to pay 6 per cent interest on the money borrowed. At the maturity of my obligation, of course, the Philippine National Bank will proceed to collect from me the money I owe it, with interest agreed upon between me and the Philippine National Bank. Suppose for some reason I refuse to pay my obligation and the interest thereon. Then I have a claim against the Philippine National bank. According to existing law in the Philippine Islands this controversy between the Philippine National Bank and the debtor would be taken to court for determination and adjudication for trial and judgment. However, if H. R. 16868 is enacted into law, no longer will the courts hear that claim. It would go to the auditor.

Mr. RAGON. If I may interrupt, suppose you had a recoupment against that claim, you do not mean to say that the auditor would pass upon that?

Mr. GUEVARA. Yes; he would, according to H. R. 16868. He would settle that claim. That is the reason this proposed bill gives the auditor the power to communicate with any person having a claim and to summon witnesses, take evidence, and to have a real trial court.

Mr. SABATH. There is no question but what that may be done under the bill now before us.

Mr. GUEVARA. Suppose the Manila Railroad Co. should order materials, say, steel, in the United States from the United States Steel Corporation. The two parties would agree upon a certain price per ton for that steel, and the Steel Corporation would ship the material from here to the Philippine Islands. After it got there some dispute with reference to transportation charges would come up, and the railroad company and the Steel Corporation could not settle the matter between themselves. Thereupon a claim arises against the railroad company and in favor of the Steel Corporation. In this case under the existing law the claim would go to the court for trial and

decision, whereas according to the proposed bill it would go to the auditor and be settled administratively.

The CHAIRMAN. That might save a lot of litigation.

Mr. GUEVARA. If you will give the Legislature of the Philippine Islands power to impeach the auditor for the Philippine Islands for malfeasance, etc., we would give him all the power he seeks.

The CHAIRMAN. To whom would you give that power?

Mr. GUEVARA. I would allow it to repose in the courts, where it is now.

I will cite you a case that occurred in the Philippine Islands. A corporation known as the Finley Corporation executed a contract with the bureau of public works in the Philippine Islands to construct a system of irrigation in one of the northern Provinces for a certain amount. The contract was duly executed and signed by the chief of the bureau of public works and the Finley Corporation. That corporation sent its engineers there to make plans for the irrigation system, but for one reason or another the corporation failed to fulfill its part of the contract to construct the irrigation system; therefore according to the law it has no right to claim a cent from the Philippine government. But what really happened?

The CHAIRMAN. Would that not depend upon the terms of the contract?

Mr. GUEVARA. That corporation presented its claim to the bureau of public works of the Philippine government, whose head is Mr. Williams, a very high-class American citizen of whom the American people should be justly proud. After due consideration of the terms and conditions of the contract executed between that corporation and the bureau of public works, Mr. Williams refused to pay the Finley Corporation because they had failed to fulfill their part of the contract. The Finley Corporation took up the case to the auditor for the Philippine Islands and he ordered the bureau of public works to pay 140,000 pesos, while the Finley Corporation had done nothing in favor of the government and had failed to fulfill its part of the contract.

Mr. BACON. Under the pending bill that matter could have been appealed to the courts. It is just such things as that that we would correct.

Mr. GUEVARA. How would you correct them if you give the auditor power to settle claims?

The CHAIRMAN. We would provide an appeal on the part of the government to the Governor General.

Mr. GUEVARA. That would not be satisfactory. The courts should decide such matters. If you should vest the auditor with such powers, they will be abused. A contractor would come along and tell the auditor that everything is all right and to keep still. He would say, "Boy I will do something for you some time; now you just forget this." We all know human nature. I say that all disputes in contracts between the government and private parties should be submitted to the courts for determination and adjudication.

Mr. WILLIAMS. Was that \$70,000 paid by the government of the Philippine Islands?

Mr. GUEVARA. Yes; and despite the earnest protest of the chief of the bureau of public works.

Mr. BACON. But if H. R. 16868 is enacted into law, the chief of the bureau of public works will have the right of appeal to the courts which does not exist under present law?

Mr. WILLIAMS. I am not arguing with you, Mr. Bacon, I asked the commissioner a direct question.

Mr. DALLINGER. Was the auditor who allowed that outrageous claim against the Government a military man?

Mr. GUEVARA. Yes. I am very doubtful whether he is even an accountant.

Mr. DALLINGER. By whom was he appointed?

Mr. GUEVARA. By the President of the United States. He was appointed by either President Harding or President Coolidge.

General McINTYRE. Mr. Wright, who is the present auditor for the Philippine Islands, was in the Philippine Islands as early as 1901. He served a number of years there. Thereafter he became a national-bank examiner in this country. In 1920 it was desired to send a man to the Philippine Islands, and one of his qualifications was that he should be a bank examiner. Mr. Wright possessed that qualification and Mr. Baker, the then Secretary of War, made a contract with Mr. Wright to go to the Philippine Islands. After he had been there a short while he was appointed auditor for the Philippine Islands by the President of the United States. I think he was appointed by Mr. Harding, although it may have been Mr. Coolidge. However, he was sent to the Philippine Islands by Mr. Baker and appointed auditor for the Philippine Islands by the following administration.

Mr. GUEVARA. I do not know whether he is even an accountant. I am not an accountant, and I can not pass upon his qualifications.

Mr. BACON. Mr. Wright was a bank examiner here before he went to the Philippines.

General McINTYRE. He was a bank examiner under the Federal Reserve Board at or about the time he went to the Philippines in 1920.

Mr. KNUTSON. Then he is qualified for his duties.

Mr. GUEVARA. Perhaps. He believes himself qualified to pass even upon the constitutionality of laws passed by the legislature of the Philippine Islands.

Mr. CHAIRMAN. Mr. Wright will not always be auditor there, and perhaps his successor will have different views.

Mr. GUEVARA. There is only one course to be followed here. Will you maintain the dignity of the courts of justice in the Philippine Islands, or will you place the government of the Philippine Islands under one man called the auditor for the Philippine Islands? That is the question to be settled here.

The CHAIRMAN. We would increase the power of the courts by this bill.

Mr. GUEVARA. You would not increase the power of the courts, because the same power given by this bill is now enjoyed by the courts of first instance, without another court called the auditor for the Philippine Islands. The courts are enjoying the same powers and authority and jurisdiction that you are giving them under this proposed bill. They decide and try cases, but if this proposed bill is enacted into law, they can not try cases without first passing through the auditor of the Philippine Islands. You can not submit

to the courts any question without first passing through the office of the auditor for the Philippine Islands. That is the difference. No claim may be submitted to the court before it has passed first through the office of the auditor.

I am going to say something about a question that was asked me yesterday concerning the power of Congress to pass this legislation. Somebody asked me whether I challenged the right of Congress to pass the bill now under consideration. I wish to take advantage of this opportunity to say that I am the first man to recognize the absolute right of Congress to pass any legislation regarding the Philippines.

Mr. THURSTON. State your reasons.

Mr. GUEVARA. It is my misfortune, however, that I am not an American. If I were an American, I would not only challenge the right of the Congress to legislate for the Philippine Islands, but I would also challenge the right of the United States to remain in the Philippine Islands.

Mr. BACON. Did the Congress have a right to pass the Jones Act?

Mr. GUEVARA. Were I an American citizen, I would not only challenge the right of the Congress to legislate for the Philippine Islands, but I would also challenge the right of the United States to remain longer in the Philippine Islands. As I have said, it is my misfortune that I am not an American citizen, and as a Filipino I can not challenge the right of the United States. Within the wisdom of the Congress of the United States it can pass any legislation; but if the voice of the Philippine people is worthy of some consideration, I believe I have expressed their sentiments before this committee.

I am going to pass to another question in this bill. In section 29 of the bill now under consideration there are certain very important considerations. Mr. Chairman, we have been living under the American flag for the last 27 years, and we have been voicing the benefits we have received from our association with you; but never, even during insurrection against United States sovereignty, have we received such a cutting slap as this section would administer. We have always regarded the people of the United States as generous, kind, and just. We have never thought that because you gave us a few cents you would take them back—those few cents.

The CHAIRMAN. Where are we going to do that?

Mr. GUEVARA. Right here [indicating].

Mr. BACON. We would simply say how that money should be spent. We are not going to take it back.

Mr. GUEVARA. Despite the opinion and the statements made that that money was a gift of the Nation to the Philippine government, it is not in our conception a gift to the Philippine government. Let me give you a history of that money. The first civil commission sent to the Philippine Islands, which was presided over by Mr. Chief Justice Taft and who with his associates then constituted the legislative branch of the Philippine government, enacted an export tax law to provide revenues for the Philippine government. The Congress of the United States in the exercise of its wisdom saw fit to repeal that law enacted by the Philippine commission presided over by Mr. Taft. That was in 1903. The commission was opposed to the repeal of that export tax law because it was a source of revenue for the Philippine government. The Congress of the United States

observed that the repeal of that act would benefit American consumers and producers and present a loss for the Philippine government. Therefore the Congress inserted in the same act that repealed the export tax a provision that all moneys collected in the United States on products from the Philippine Islands should constitute a special fund and be covered into the treasury of the government of the Philippine Islands for general purposes.

The CHAIRMAN. Is it not a fact that such was done because your revenues were insufficient to meet your expenses?

Mr. GUEVARA. No, sir. I wish you would try to bring here statistics showing that we have at any time not been self-supporting since the American occupation.

The CHAIRMAN. Then what excuse did the United States have for giving that money to you?

Mr. GUEVARA. The export tax was imposed upon American consumers and manufacturers, and the abolition of that export tax benefited the American consumers and American manufacturers, because the American consumer would not pay in addition to the price of the goods the tax that was supposed to be paid in the Philippine Islands before the goods departed for the United States.

The CHAIRMAN. Then you think the United States ought to tax her people to make up your revenues?

Mr. GUEVARA. No; that is not my contention.

Mr. SABATH. The commissioner maintains, as I understand him, that the United States deprived the Philippine Islands of the benefit of the export tax.

Mr. RAGON. And substituted this for it.

The CHAIRMAN. That gets back to the question of whether they need it for their revenues. After they took off the export tax they needed this.

Mr. GUEVARA. We ought to have that export tax law or have this; but Congress may deprive us of both.

The CHAIRMAN. But under section 29 of H. R. 16868 we would give it to you.

Mr. GUEVARA. No; I do not agree.

Mr. KNUTSON. Under the pending bill that special fund would be subject to the control of Congress. There is no question about that. No money could be taken out of the Treasury without an act of Congress. The bill says it shall be held in the Treasury of the United States as a special fund. As a matter of fact, that money could be used to build roads in the United States, if Congress should so will.

Mr. HUDSON. Should that not be safeguarded by a further limitation as to what that fund would be?

Mr. GUEVARA. The Congress of the United States has absolute power to dispose of this money in any way it may see fit. However, I wish to convey at this time to members of this committee the sentiment of the people of the Philippine Islands. Poor as we are, needy as we are, we desire to renounce this gift of the United States, if this gift is going to be given to us under conditions imposed in this bill. According to it, we would not be worthy of the American people. We would not be willing to live under the American flag if we should have to accept the donation or gift under this condition. I believe that if you should do the same thing, or try to do so, with any State of the Union, you would get the same response and protest,



and you would hear the same sentiments I am uttering. If the Congress of the United States should attempt to deal with the State of Massachusetts or the State of Michigan as it would deal with us in this bill, I believe my friends on this committee, the gentlemen from Massachusetts and Michigan, would be the first to earnestly protest.

Mr. UNDERHILL. Is not the Government doing this same thing in the 50-50 projects regarding the building of roads and maternity affairs?

Mr. GUEVARA. But the people of the State of Massachusetts pay tax to the Federal Government. You have a right to participate in that fund. That is a right and not a gift. Under this proposed scheme you would not only be taking money from the Philippine Islands, but you would take the dignity that the Philippine people rightfully deserve to retain.

The CHAIRMAN. Do you not think this bill is along the line of giving the Philippine Islands more autonomy? It seems to me that such is the case.

Mr. GUEVARA. No; I do not. It is just the contrary. It diminishes the autonomy already granted to the Philippine Islands.

The CHAIRMAN. If the dream of Philippine independence is realized, of course, you will not get anything from the United States; therefore you might get used to this. But for the time being we give it to you in another way.

Mr. GUEVARA. You would give us this money in a manner that requires a surrender of our dignity. It is better that you withdraw this money in its entirety than give it to us in the manner provided in this proposed measure.

Mr. GILBERT. Under existing law, as I understand, the legislature of the Philippine Islands appropriates this money?

Mr. GUEVARA. Yes; that is true.

Mr. GILBERT. Under the proposed bill it would be appropriated in a different way. It would be appropriated by the Governor General of the Philippine Islands.

Mr. BACON. No; by the Congress of the United States.

Mr. GILBERT. By the Congress.

Mr. BACON. Yes.

Mr. GILBERT. Then to that extent we are necessarily reducing the autonomy of the Philippine government.

Mr. GUEVARA. Not only that but you would reduce the dignity of the Philippine people, a dignity that the people of the United States ought to be the first to defend, maintain, and promote, because the Philippines are under the American flag.

Mr. KNUTSON. This bill would not affect internal taxes in any manner, as I understand.

Mr. GUEVARA. No. This bill provides for payment of the salaries of the Governor General, the chief justice, and associate justices of the Supreme Court, and an auditor and his two assistants.

Mr. KNUTSON. This bill provides for articles imported into the United States from the Philippine Islands. There is a limitation there. It is not general.

Mr. GUEVARA. If this is American money, keep it in the American Treasury. Why pay our Governor General, our justices of the Supreme Court, and our auditor?

The CHAIRMAN. Why should we not pay the salaries of officer appointed by the President of the United States? We pay them now. If we did not provide for them after taking this fund away, the Philippine Islands would be worse off.

Mr. GUEVARA. The political effect of this bill is to consider the Philippine Islands out of the jurisdiction of the United States. For example, you are sending a minister to China, to Japan, and to the various other countries of the world, and paying their salaries, which is proper. Now that is the way you want to do with our Governor General, the associate justices of the supreme court, and our auditor. You would treat the Philippine Islands as a foreign nation to you. If so, why not give them independence?

Mr. KNUTSON. Do you not think the Governor General of the Philippine Islands occupies the quasi position of a diplomat and an executive?

Mr. GUEVARA. No; I do not; he is purely an executive officer.

Mr. HUDSON. In my State of Michigan the Federal Government pays our Federal judges and revenue collectors there, and we pay it out of the money that is raised from Federal taxation within the State. We find that such does not hurt our dignity or independence or our mutual dependence.

Mr. GUEVARA. That is all right, because you pay Federal taxes.

Mr. HUDSON. You maintain that you are paying this indirectly.

Mr. GUEVARA. No; we do not pay a single cent as Federal tax to the United States. If the Philippine Islands paid taxes to the United States, perhaps this provision would be less objectionable. But the Philippines do not pay a single cent of tax to the Government of the United States.

Mr. HUDSON. Mr. Chairman, I feel that we should now come to the order of the day. However, I desire at this time to have the record show my sincere appreciation of the splendid manner in which the Commissioner is presenting his side of this matter. He has done so thoroughly, clearly, honestly, and with a great deal of ability; but I think we should now come to the order of the day.

The CHAIRMAN. With the understanding that the Commissioner be permitted to insert in the record any further remarks he may care to make. The committee has now gone 30 minutes beyond the time set for an executive session.

Mr. KNUTSON. We should have heard the Commissioner at greater length yesterday. I made the request at that time. This is a big question, and I do not think we desire to go upon the floor of the House with incomplete information.

The CHAIRMAN. The Commissioner has had an hour and three-fourths this morning.

Mr. KNUTSON. The committee had that long.

Mr. BRUMM. For one, I am not willing to vote on this bill before I hear the Commissioner to a conclusion. I desire to hear and understand as best I may everything in this bill.

The CHAIRMAN. Do you desire to ask the Commissioner some questions?

Mr. BRUMM. Yes; but I would like to see him finish his presentation first. We have heard officers of the United States, but the Commissioner is here alone representing his government, and I do not want to go on record as being in favor of curtailing him in presenting

his case. The first day of his statement was interrupted very much by members of the committee, and he was not given a clear field.

Mr. HUDSON. It is not my desire to cut off the Commissioner in any manner.

Mr. BRUMM. No; I understand that.

Mr. HUDSON. I had supposed the Commissioner had gone over his complete case. I rather think he has.

Mr. UNDERHILL. He is discussing section 29.

Mr. HUDSON. I think he has gone through the whole bill.

Mr. KNUTSON. This is the only opportunity the Philippine Islands have to be heard in this matter, and therefore I think the Commissioner should be allowed to proceed to a conclusion.

Mr. BEEDY. Mr. Chairman, would you ask the Commissioner if he desires to be heard further; and, if so, how much longer?

The CHAIRMAN. Mr. Guevara, do you desire to proceed, and, if so, how long?

Mr. GUEVARA. I do not know how long it would take me to finish.

Mr. BEEDY. Do you desire to be heard further?

Mr. GUEVARA. Yes; absolutely.

Mr. BEEDY. For how long?

Mr. GUEVARA. I can not estimate that, because this bill is very fundamental.

Mr. BEEDY. As much as three hours?

Mr. GUEVARA. Perhaps as long as that.

The CHAIRMAN. He would not do that with my consent. I would not hear anybody three hours.

Mr. BEEDY. I move that we hear the commissioner an additional half hour at this time.

Mr. BACON. I second that motion.

The CHAIRMAN. A gentleman has been here three mornings for the purpose of being heard by the committee, and if we could at this time give him 10 minutes, I think it would be well.

Mr. UNDERHILL. If he is the gentlemen I think you refer to, I want him to talk longer than 10 minutes. He has just returned from the Philippine Islands and knows more about this matter than anybody, except Mr. Guevara.

Mr. GUEVARA. I should be glad to yield to the gentleman in question at this time.

Mr. KNUTSON. Let us hear further from Mr. Guevara at this time.

Mr. GILBERT. I may say that the Commissioner is at a point in his presentation that concerns me more than any other part of the bill.

Mr. BEEDY. I will withdraw my motion.

Mr. DALLINGER. I believe there is general debate on the legislative appropriation bill to-day.

The CHAIRMAN. Yes.

Mr. DALLINGER. Then, why not let us continue at this time?

Mr. KNUTSON. We have to have permission to sit after 12 o'clock.

The CHAIRMAN. Let us run along until somebody feels that we must quit.

Mr. RAGON. I would suggest that we let the Commissioner stop at this time and hear the gentleman about whom the chairman just spoke. I would like to hear him, but I can not come back this afternoon.

Mr. GARDNER. That suits me. I do not want to deprive Mr. Gilbert of the opportunity to ask any questions he may desire to ask.

Mr. GILBERT. I am more concerned with the general purposes of the bill than its technical construction. The United States has maintained, or at least has announced a policy through all these years, that our attitude toward the Philippine Islands was and would be one of increasing autonomy to result in total independence, and also that our attitude would be one of cooperation with those people. Mr. Commissioner, in your opinion, does the taking away of this joint administration of affairs and putting it solely in the hands of the Congress of the United States constitute a contraction rather than an expansion of your autonomy? Is that not necessarily a contraction rather than an expansion of autonomy?

Mr. GUEVARA. It is a contraction—a diminution.

Mr. GILBERT. And it is a separation of these functions. The Congress of the United States shall spend certain moneys and the Legislature of the Philippine Islands shall spend certain money. Is that not a withdrawal of cooperation and providing for separate functions?

Mr. GUEVARA. Yes, sir. Not only that, but it will give rise to ill-feeling between the two peoples.

Mr. GILBERT. Will it not necessarily, in your opinion, cause friction rather than maintain or promote harmony?

Mr. GUEVARA. Absolutely so.

Mr. GILBERT. Do the people of the Philippine Islands desire to accept a gift that will detract from their dignity and participation in their own affairs, even though they might benefit financially?

Mr. GUEVARA. By no means. I suppose we shall have to endure it, because we can not help ourselves; but we would not accept it willingly.

Mr. GILBERT. I asked one question of General McIntyre that seemed to be absurd to some members of the committee. Would not \$25,000 in the Philippine Islands have a much greater purchasing power than the same amount of money would purchase in the United States?

Mr. GUEVARA. What I can buy for 1 peso in the Philippine Islands I can not buy for \$1 in Washington. A pound of chicken in the Philippine Islands costs about 30 cents connant, or 15 cents in gold. A whole chicken weighing 2 pounds costs about 30 cents in gold there. In Washington, where I have lived for four years, I never bought a chicken for less than 60 cents gold a pound. Again, the shoes I have on were bought in the Philippine Islands two summers ago and they cost me \$7.50. They are Florsheim shoes and cost \$10 in the United States.

Mr. GILBERT. What is the purchasing power of this \$25,000 expended in the Philippine Islands?

Mr. GUEVARA. Practically speaking, it is \$50,000.

Mr. GILBERT. I was in Manila with 15 or 20 other Congressmen one time and we all wanted to load down the boat and bring home a cargo under the false impression that we were buying the things very reasonably.

Mr. GUEVARA. I am sorry that the people there take advantage of American tourists and make them believe that the peso is equal to an American dollar.

Mr. GILBERT. I came back to the United States with about \$1,500 worth of goods, and they cost me \$300. I declared exactly what they cost me. The customs officer looked at them and asked me what I had paid for them. I told him, and he replied, "You paid too damn much." I am more concerned in that than I am in the dollars and cents. After the decision of the supreme court in the Ynchausti case, is there any doubt or any ambiguity as to the functions of the auditor as they now exist?

Mr. GUEVARA. No; he had no more powers then than he has now according to the Jones law.

Mr. GILBERT. The purpose of this bill is to clarify any confusion that exists as to the functions and duties of any officer, or is it to give power that those officers do not now have?

Mr. GUEVARA. The effect of the bill is to give the auditor of the Philippine Islands the power he thought he had before the decision of the supreme court.

Mr. BRIGHAM. You mean the powers he had exercised before that decision.

Mr. GUEVARA. Yes; it is not to clarify the duties; it is to give him the power he thought he possessed.

The CHAIRMAN. We are fortunate in having with us this morning Mr. Williams, who has just returned from the Philippine Islands——

Mr. UNDERHILL (interposing). Before going into that, I, for one, desire to hear Mr. Guevara further. Mr. Williams is not in any hurry to get away.

Mr. RAGON. I had understood he could not return after to-day.

Mr. UNDERHILL. No; I believe he can come here almost any time.

Mr. HUDSON. I think we ought to follow Mr. Guevara before we hear Mr. Williams.

The CHAIRMAN. Go ahead, Mr. Guevara, and tell us more about section 29.

Mr. BEEDY. May I ask the commissioner a question at this time?

The CHAIRMAN. Certainly.

Mr. BEEDY. Whose money is this that is being dealt with in this bill?

Mr. GUEVARA. It belongs to the American people, but it was given to the Philippine government as a compensation for the loss suffered by the Philippine government by reason of the repeal of the export-tax law. Therefore, if I were a judge now deciding this case, I would say this is a donation or gift to the Philippine people.

Mr. BEEDY. Your position is that such is a gift that ought not in good morals and good conscience be revoked?

Mr. GUEVARA. Yes; that is true. I believe all members of the committee know about Indian gifts in this country.

Mr. BEEDY. The title to this money, as it is collected from year to year, has for all time been parted with by the American people and is vested by them in the Philippine people.

Mr. GUEVARA. Yes.

The CHAIRMAN. Of course this all happened a great many years ago.

Mr. GUEVARA. Twenty-seven years ago.

**STATEMENT OF MAJ. GEN. FRANK McINTYRE, UNITED STATES ARMY, CHIEF OF THE BUREAU OF INSULAR AFFAIRS, WAR DEPARTMENT**

The CHAIRMAN. We have with us this morning a gentleman who is familiar with the subject of revenues in the Philippine Islands, and I think we ought to ask him about this matter at this time. I refer to General McIntyre. General McIntyre, what happened at the time this change was made? Why was the export tax removed?

General McINTYRE. In all the Spanish possessions that we took over at the end of the Spanish-American War, the export tax was quite a serious part of their income. For instance, in Porto Rico there was an export tax on coffee, and it was abolished by the military government there. That was not because as Americans we objected to or were affected by that tax, but because it was oppressive of the people there.

In the Philippine Islands we could not abolish at once all export taxes. The Congress in the Philippine tariff acts it passed continued these export taxes a while for the support of the government, and the export taxes there were not abolished until the passage of the Underwood tariff bill in 1913. That action took away a certain amount of the revenue of the Philippine Islands, but the agriculturists in the islands who produced such things as sugar, tobacco, and hemp had been asking for years to be relieved of the export tax. We do not have an export tax upon our people, and it was to help the people of the Philippine Islands that we abolished that tax there. Time and time again the producers of hemp and others objected to the export tax in the Philippine Islands. The government there at times was quite fearful of losing this export tax because it was afraid its repeal would cause a large loss in revenues. Therefore the government was not so strong for the repeal of this tax as were the agriculturists.

It was provided in 1902 that the customs duties collected in the United States on products coming from the Philippine Islands should be turned over to the Philippine government. One may see at once that such was not a reciprocal arrangement, because we took off 25 per cent of the American duty on products coming from the Philippine Islands, but American goods going into the islands paid full duty. That was necessary to comply with the treaty with Spain, which provided that for 10 years American goods could not receive more favorable terms of entry into the Philippine Islands than could Spanish goods. Therefore, we paid on all American products going to the Philippine Islands full duty, and that money went into the treasury of the Philippine Islands, while all goods of the Philippine Islands coming to the United States were allowed a discount of 25 per cent. What we collected went into the treasury of the Philippine Islands to assist that government. The basis for the idea that there was a reciprocal arrangement was as follows:

It was provided that the duty collected in the United States on Philippine products should be reduced by the amount of any export tax which was paid on those products in the Philippine Islands. There was, for example, an export tax on sugar and tobacco in the Philippine Islands, and when those products came to the United States our

customs duty was reduced by the amount of the export tax paid in the islands.

On Manila hemp there was likewise paid an export tax in the islands, but hemp was on the free list in the United States. It was therefore provided that all articles the growth and product of the Philippines admitted into the United States free of duty for use and consumption therein should be exempt from any export duties imposed in the Philippine Islands. This created a situation under which hemp exported from the islands for use in foreign countries paid an export tax and for consumption and use in the United States paid no export tax. In the enforcement of this provision it was found necessary to collect the tax in all cases but to refund it on evidence that the hemp paying the tax had been consumed in manufacture in the United States.

It was this situation that has given rise to the suggestion that customs duties collected in the United States on Philippine products were turned back to the Philippine treasury because the Philippine treasury was deprived of the export tax on Manila hemp consumed in the United States. This view was strengthened by the fact that these two amounts were approximately equal for a number of years.

The Philippine Commission, headed by Mr. Taft, complained bitterly of this export tax refund and an effort was made to abolish it. It was abolished in 1913. Therefore there is no set-off against this fund to-day. The Philippine Islands do not pay any export tax for the same reason that the people of Porto Rico do not pay such a tax. Nobody wants to pay an export tax that I know of, if he can support his government without it.

Mr. BEEDY. I understood you to say that originally there was a consideration, as it were, for the remission of the export tax which was met by the reduction on the duties that were collected at our ports, but subsequently and now, affecting this money, there is no trade about it.

General McINTYRE. No; there never was a trade, but it so worked out and was set up by the commission in their report. They said, "This is the amount of export duty refunded, and this is the amount of taxes collected in the United States and turned in to the treasury of the Philippine Islands."

Mr. BEEDY. Who started that practice and what was the motive?

General McINTYRE. It was done in the act of 1902. It was done to reduce the price of cordage in the United States.

Mr. BEEDY. I presume that we, receiving the benefits of the reduced price of cordage, thought it only fair to send back this money to the government of the Philippines.

General McINTYRE. The theory was that we send a great deal more back. We started to give 25 per cent reduction in taxes on all things coming from the Philippine Islands. That is more than we gave Cuba. However, the Philippine Islands are paying nothing now. Everything comes in free.

As a matter of fact, there is no territory under the American flag that is treated so favorably as the Philippine Islands. No foreign country could by any treaty or otherwise get anything approximating the privileges we accord the Philippine Islands.

Mr. RAGON. With reference to the tariff?

General McINTYRE. Yes. This is what happens: In the Philippine Islands the leading export crop now is sugar. For purposes of comparison, I will take Hawaii; the principal crop of Hawaii is sugar also. Sugar from both places comes to the United States free of duty. The principal food of the laborer in the Philippine Islands is rice, and the principal food of the laborer in Hawaii is rice. A Hawaiian has to pay a duty of about \$4.40 a hundred kilos, or 2 cents a pound, on his rice. That money goes into the Federal Treasury. The inhabitants of the Philippine Islands import rice principally from Indo-China and pay a duty imposed by their own legislature. The legislature has fixed the duty at \$1.50 a hundred kilos. That money goes into the treasury of the Philippine Islands. That duty can be reduced to-morrow, or, if the legislature desires to protect its own rice growers, it can increase the duty. They fix the duty themselves. Both Hawaii and the Philippine Islands are producing and bringing sugar to the United States, but Hawaii pays twice as much for its rice as does the Philippine Islands. The duty on rice entering Hawaii is \$4.40 per 100 kilos; in the Philippines, \$1.50 per 100 kilos.

Mr. DALLINGER. I gathered from your statement that the Legislature of the Philippine Islands has very much more power than the Territorial Legislature of Hawaii.

General McINTYRE. Yes; it has more power than any Territorial legislature we have ever had.

Mr. BEEDY. This money that is supposed to be a gift is money collected from American consumers on account of internal-revenue taxes on tobacco, cigars, etc.

General McINTYRE. Largely cigars.

Mr. BEEDY. Do we give that same money to the Porto Ricans?

General McINTYRE. We have since 1917.

Mr. BEEDY. Is that money paid into the treasury of Porto Rico and appropriated by its legislature, following the practice in the Philippine Islands?

General McINTYRE. Yes.

Mr. BEEDY. In other words, they are on a parity in that respect.

General McINTYRE. Yes; in that respect, but in other respects—

Mr. BEEDY (interposing). I am speaking in a general way and have particular reference to this money.

General McINTYRE. Yes; that is the same.

Mr. BEEDY. We have introduced a bill to take this money away from the Philippine Islands, and there is none for Porto Rico; therefore they are not to be on a parity.

General McINTYRE. For more than six years I have come before this committee at intervals and requested that the salaries of these 13 officers appointed by the President be put on a reasonable basis. That is not the basis that British officers are on, even though they are occupying similar positions. We do not ask that the Governor General, who presides over an island of 12,000,000 people, should receive the same as the British pay the Governor of the Straits Settlements, with less than a million population, or the Governor of Hong-kong, which is a city about the size of Washington. We are only asking what is reasonable. Every time that I have advocated these increases it has been opposed on the ground that we are asking Congress to dispose of the revenues of the Philippine Islands, and that would constitute a case of taxation without representation. I have



tried to answer that by saying that such would be only a very small part of the tax the American consumer pays when he buys cigars and like things that come from the Philippine Islands. The total of these salaries is only a small part of what we turn over to them; but we can not get that money so long as it is a part of the money that the Legislature of the Philippine Islands disposes of.

The money we are giving these officials in the Philippine Islands is money which we collect here in the United States.

Mr. RAGON. Have you ever before suggested that the salaries of these officers be increased out of this money?

General McINTYRE. Yes; I was here when Mr. Newton Baker was Secretary of War and made the attempt, and I have attempted it several times since.

Mr. RAGON. Why has not some bill been introduced along that line?

General McINTYRE. One bill looking to an increase for the auditor only passed the Senate.

Mr. RAGON. Such a bill has not been introduced in the House during the last four years.

General McINTYRE. This would be a salary bill. These salaries are the ones we have recommended since 1920, and are, in effect, practically the same salaries we tried to get put into the Jones bill. It was difficult to get the committee to take the view that it would be our money that we would dispose of.

Mr. WILLIAMS. Why not amend this bill to take care of those salaries and then keep back that much money, giving the remainder to the treasury?

General McINTYRE. I think it will be explained why some of this other money is needed for other purposes. I think you are going to find when you go into this matter that appropriating this money would be for purposes which the people of the Philippines understand and which should be taken care of, but it is impossible as a political proposition in the Philippine Islands.

We need in the Philippine Islands a school for the children of Army and Navy officers, civil officers we send there, and for Americans doing business in the Philippine Islands, yet whose homes are in the United States. Such a school should fit in with our school system in this country, so that when a boy finished there and arrived at a certain age he would be prepared to enter college. The same is true with respect to girls. Most American parents have in mind, though temporarily in the Philippines, the American education of their girls and boys.

Now, when one goes before the Legislature of the Philippine Islands and asks it to provide a special school for American children out of their revenues, the political situation presents itself. A Filipino who would like to do it and who would understand the compelling reasons, would not care to take affirmative action and thereby place himself in an unpopular position before his own people. That is the sort of thing that it is hoped may be taken care of here. It would relieve them of a certain embarrassment.

Mr. BEEDY. Mr. Williams brought up an interesting parallel which presents several points of view. I want to connect that up, if I can. You just stated that what we proposed to appropriate is but a small

part of the money we turned back to the Philippine Islands. What do you mean by that?

General McINTYRE. The salaries would be but a small part—\$160,000. That would be approximately one-third. You reduce by one-half—

Mr. BEEDY. It seems to me that so far as circumstances justify we ought to proceed in the management of all our insular possessions in a more or less uniform manner. What would you suggest as a justification of this treatment of the Philippine Islands as opposed to similar treatment for Porto Rico?

General McINTYRE. As you will probably recall, two or three years ago the representatives of Porto Rico came here and told you that they appreciated the fact the salaries we were giving our officers in Porto Rico were too small. They themselves had increased the salaries of their own people. Congress alone can increase those salaries there, and their legislature had passed an act providing for increases in these salaries, subject to your approval. The Congress did not approve them fully. We were getting somewhere with the good will of the Legislature of Porto Rico, but we have not been able to do that with the Legislature of the Philippine Islands.

The CHAIRMAN. Is it not true that the Porto Ricans wish us to pay our officers in Porto Rico more money?

General McINTYRE. Yes; the representatives of Porto Rico came here and recommended about the same salaries we thought proper, but Congress did not think so.

Mr. BEEDY. The decision of the department would be this, General—that this departure from a uniform policy seems to be justified by more of a resentment on the part of the Filipinos than there is on the part of the Porto Ricans of our attempt to govern them. Is not that a fact?

General McINTYRE. In a way it is.

Mr. BEEDY. What do you mean by "in a way." Is it not a plain matter of fact?

General McINTYRE. In Porto Rico we have certain political questions and the people there are busy and intense with them. In the Philippine Islands they have certain other questions. In Porto Rico these questions we are discussing are not political, but in the Philippine Islands they are of a political nature.

As a matter of fact, I feel personally that it is quite as easy, or easier, to get along with the Filipinos than with any other people. I do not feel that they are resentful of American occupation; but racial questions may be used anywhere in an appeal to the people.

Mr. BEEDY. I do not think we ought to let that go into the record that they are resentful of American rule. They are resentful of the purpose of another nation to govern them, no matter what the nationality may be.

General McINTYRE. It is a strong nationalistic spirit that is being encouraged.

Mr. BEEDY. Is there not a resentment on the whole, but the objection to our rule over the Philippine Islands is stronger there than the objection to our rule in Porto Rico is in Porto Rico?

General McINTYRE. The feeling does not show itself so strongly in Porto Rico as it does in the Philippine Islands. Recently certain people in Porto Rico were invited to attend a congress of some sort—

a congress of oppressed peoples to be held at Brussels or the Hague. The young man representing the Nationalist Party in Porto Rico wrote a lengthy article about the failure of those interested in this movement in an effort to collect money enough to send a representative to this congress. Apparently there was not enough interest in that movement to cause people to contribute toward defraying the expenses of representation.

Mr. HUDSON. In relation to this other part of the fund, would that not be on a parity with our saying to our States that we will contribute so much money for the building and maintenance of roads, the care of health, or other purposes? That puts the two on the same footing.

General McINTYRE. Yes; that is true.

Mr. HUDSON. We would say "in addition to what you are doing, we want to help, and we will put this money with your money."

General McINTYRE. Yes.

Mr. GILBERT. But we are part of both governments. We are in a dual status. With them it is one people as against another people. In the United States we are as much a part of the Federal Government as we are a part of the States. It is a matter of procedure and accounting, whereas when the American Government takes certain action with the government of the Philippine Islands, it presents an entirely different situation, in that the Filipinos are not a part of the American Government in a sense that the States are part of the Federal Government.

Mr. RAGON. You do not mean to say that the Federal aid we give for roads would be on a parity with this, because we do not force upon the States any Federal aid. If the States receive Federal aid it is the result of their own initiative.

General McINTYRE. There are several differences, and I do not mean to say that it is entirely parallel.

Mr. HUDSON. I refer to this fund.

General McINTYRE. In the States one is presumed to pay these taxes, and that is the form in which the Federal Government takes to distribute them, but in the Philippine Islands no Federal tax is paid.

Mr. KNUTSON. When Federal aid is given to the States the States have to provide an equal amount.

Mr. RAGON. But we do not have to take Federal aid in any way unless the States request it.

The CHAIRMAN. You do have to match the Federal contribution 50-50.

Mr. RAGON. There is the education bill that has been talked about a great deal, and many people object to it because they do not want to be under a supervisory board that would tell them what standards of education they should attain. We would go to the Philippines with money to expend for educational purposes among people who think they know more about the needs than we know.

Mr. KNUTSON. That does not apply to the Filipinos.

Mr. RAGON. Then it is more objectionable than ever. I understood this was to help them by way of general education.

The CHAIRMAN. In 1913, when the export tax was finally repealed entirely on Philippine products that would have been the logical time to stop returning money to the government of the Philippine

Islands, but we continued to do it. The reciprocal part we should have stopped at that time.

General McINTYRE. There is no possible set-off against this fund. The CHAIRMAN. But up to 1913 there was a set-off.

General McINTYRE. It could have been claimed.

Mr. BEEDY. We have never made a gift of this money to the Philippine Islands?

Mr. BACON. Yes; after 1913.

Mr. THURSTON. There have been some statements made here that might lead to the belief that we are oppressive toward the Philippine Islands. I want to ask General McIntyre whether he has information as to what the cost would be to the Philippine producers if their government were independent in form and their citizens were obliged to pay import duties on their products now coming into the United States?

General McINTYRE. It would so disarrange their products as to make it almost incalculable.

Mr. THURSTON. Would it be as much as \$5,000,000 or \$10,000,000 a year?

General McINTYRE. Last year the Philippine Islands sold \$40,000,000 worth of sugar in the United States. That figure is \$17,000,000 in excess of the price they could have gotten anywhere else in the world.

Mr. THURSTON. According to present arrangements, each year our Government is responsible for a very large gratuity to the Philippine people.

General McINTYRE. Yes; in an indirect way.

Take the case of cigars coming here from the Philippine Islands. We waive a custom tax of about \$44 a thousand. Those cigars sold for only \$23 or \$24 a thousand here; therefore we waived more than the entire cost of the cigars. If we did not waive the customs duty, we would not have any Philippine cigars here, whereas there are more cigars coming to the United States from the Philippine Islands to-day than come here from all foreign countries combined.

Mr. SABATH. You told us a little while ago that the people of the Philippines exported a great deal of sugar to the United States. I believe you told us they exported \$40,000,000 worth last year. Are there any American sugar growers in the Philippine Islands?

General McINTYRE. Yes. There were about one-third Americans, including a group of Hawaiians interested in the Philippine Islands; about one-third Filipinos, including the Philippine National Bank; and some Spaniards.

Mr. SABATH. Was that the Hawaiian Sugar Co.?

General McINTYRE. It was the Hawaiian group. It is owned by Hawaiians. They are men of the same group who have interested themselves in two or three sugar propositions there.

Mr. WILLIAMS. In 1913 when we began to let the Filipinos have this money, if we had then placed it in the treasury, it would have been better than to wait until they have used it for 14 years.

General McINTYRE. Having given it once, we are apparently taking it away from them.

The CHAIRMAN. Mr. Guevara and General McIntyre will be here Monday at 10 o'clock, and before we adjourn to-day I would like to read a letter into the record which, I think, will be interesting to

the committee. It is from Colonel Stimson, who was, you will recall, the Secretary of War under President Roosevelt. Mr. Stimson spent last summer in the Philippine Islands. He called me by phone and offered to come before this committee, but I told him if he would write a letter I would see that it was presented to the committee.

WINTHROP, STIMSON, PUTNAM & ROBERTS,  
New York City, N. Y., February 4, 1927.

HON. EDGAR R. KIESS,  
Committee on Insular Affairs,  
House of Representatives, Washington, D. C.

MY DEAR MR. KIESS: I am informed that your committee is reporting or has reported a bill which proposes to devote some of the proceeds of the internal-revenue taxes levied upon articles imported into the United States from the Philippine Islands, for the employment of civil assistants to the Governor General of the Philippine Islands. You may be interested in the result of my observation last summer on my trip to the Philippine Islands bearing upon this question. In short, the result of my observation was to bring me most heartily to favor such legislation for the following reasons:

The present organic law of the Philippine Islands known as the Jones Act imposes upon the Governor General the duty of "general supervision and control of all the departments and bureaus of the government of the islands." It also provides "that all executive functions of the government must be directly under the Governor General or within one of the executive departments under the supervision and control of the Governor General." In addition to this there has been imposed upon the Governor General by other legislation effective in the islands, the duty of supervision over the administration of local government giving him the power to investigate and to remove local officials—a power quite similar to that exercised by the Governor of New York, for example, under our so-called Moreland Act.

In the Philippines this supervisory power of the chief executive is most vitally important—much more so than in this country. We are endeavoring to educate a Malay people in the western art of self-government. That people is not only inexperienced in the practice of self-government but it lives in the Tropics and is more inclined than the self-governing races in the temperate climates to fall away and backslide from good administration unless it is subject to frequent inspection and criticism which will assist it in keeping up to the mark.

Unfortunately there is in the Philippines no organized critical public opinion. The circulation of their daily press is less than 1½ per cent of the population. There are no voluntary associations of public-spirited men and women such as exist in the United States in the shape of organized charities, school boards, and prison commissions to make a practice of keeping their eye upon local public officials and seeing that they keep up a proper standard of administration. None of these customary agencies exist there at all, and the only effective substitute for this public opinion upon which we mainly rely here is the supervisory power of the Governor General of the islands. If the Governor General is vigilant and active and is able to keep his eye upon general and local administration throughout the archipelago the people readily respond, government improves, and a progress is made which is most encouraging. If he fails to or is unable to do this, a falling off can be at once noted in the districts which are left unvisited.

It was my privilege last summer to go on an inspection trip with the Governor General through a large part of the Islands and with my own eyes to observe the need of such inspections, the way in which the people responded to them when made, and the shortcomings which were often brought to light. These inspections extended to the sanitary and health service, the provincial prisons and local jails, the school system and the ordinary work of local administration, besides special problems coming up in various communities. It was a most hopeful experience for it brought to light the respect and regard in which the American governor was held (outside of certain political groups in Manila), and the way in which American influence and suggestions were welcomed by the local Filipinos.

At present the Governor General has literally no force of assistants with which to perform his vital and indispensable work of inspection except members of the United States Army and Health Service who have been detailed to him for that purpose by the home Government. The work is being done by him personally, aided only by officers of the Army Medical Corps, the Public Health Service,

and two or three officers of the American Army who have been detailed to him as his aides or civil assistants. Too much credit can not be given to those gentlemen for the unselfish and vital work which they have performed. They have performed it solely from a sense of duty and of loyalty to Governor Wood. It has necessarily jeopardized to a certain extent their careers in the Army. They have received no public credit either in this country or in the Philippines for such service but on the contrary some of the Filipino political leaders have tried to make a political issue out of it on the wholly unfounded ground that these gentlemen constituted a military cabinet.

But for the sake of the islands as well as for the personal sake of these devoted officers, a regular inspection force of civilian assistants should be established to do this work on behalf of the Governor General. Such a force should comprise experts in health and sanitation, experts in agriculture, including mines, forests, and fisheries, experts in education, and legal experts. The work to be performed by them is in no sense administrative, the incumbents should not be civil officers of the islands subject to confirmation by the Philippine Senate. They should be a force to which Americans could be appointed, reporting directly and solely to the Governor General and acting as his inspectors. The work is vital and must be done. It is being done now under difficult and abnormal circumstances. The creation of such a force as you propose would place it upon the proper basis of work done under the legal duties and functions of the Governor General imposed by the Jones law, and would, in my opinion, go further than any other single step to carry forward to success America's noble experiment in the Philippine Islands.

Very respectfully yours,

HENRY L. STIMSON.

MR. UNDERHILL. Is a tax of any character levied upon any product of the Philippine Islands coming into the United States, except tobacco, which pays an internal-revenue tax?

General McINTYRE. If an article from the Philippine Islands contains more than 20 per cent of foreign material it pays the duty when coming in here, which duty is returned to the Philippine Islands. The answer to your question is, practically speaking no.

MR. UNDERHILL. As I understand, no tax is levied upon the people of the Philippine Islands for the benefit of the United States?

General McINTYRE. That is right.

MR. UNDERHILL. And what tax is collected from that source is returned to the Filipinos?

General McINTYRE. Yes; that is right.

The CHAIRMAN. It is now 12.20 o'clock, and we will adjourn for the day, to meet next Monday morning at 10 o'clock.

(Thereupon at 12.20 o'clock p. m., the committee adjourned to meet at 10 o'clock a. m. Monday, February 7, 1927.)

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Monday, February 7, 1927.*

The committee this day met at 10.20 o'clock a. m., Hon. Edgar R. Kiess, chairman, presiding.

The CHAIRMAN. The committee will please come to order. When we adjourned Saturday, Mr. Guevara had not completed his statement, and we will hear him further at this time. Mr. Guevara, please tell us something more about this bill H. R. 16868, which would clarify and amend existing laws relative to the powers and duties of the auditor for the Philippine Islands.

**STATEMENT OF HON. PEDRO GUEVARA, A RESIDENT COMMISSIONER OF THE PHILIPPINE ISLANDS—Continued**

Mr. GUEVARA. Before proceeding with my discussion of the provisions of this bill regarding the new policy to be pursued with reference to disposal of money collected as internal revenues in the United States on products coming from the Philippine Islands, I should like to call the attention of the committee to the provision of this bill that would abolish a system implanted in the Philippine Islands having to do with banking institutions—the examination of banking institutions.

The agency created by the Philippine government for examination of banking institutions has been in operation for the last 24 or 25 years to the satisfaction of the government there, the best interests of our people, and of the Government of the United States. Now it is proposed to abolish it by the bill now in consideration.

H. R. 16868, page 5, beginning on line 7, reads as follows:

Subject to the supervision of the Governor General the auditor shall have the same jurisdiction and authority over all banking institutions in the Philippine Islands as are now or may be hereafter conferred on the Comptroller of the Currency in the organization, examination, supervision, and liquidation of national banks in the United States.

If that subdivision is enacted into law, the examination, supervision, and liquidation of all banking institutions in the Philippine Islands would be transferred from the jurisdiction of the insular treasurer to the insular auditor. There is no reason and there can not be found any reason to justify a policy of intrusting the auditing and examination of banking institutions in the Philippine Islands to the auditor than intrusting such work to the insular treasurer.

The CHAIRMAN. How is that work done now?

Mr. GUEVARA. I have in my hand at this time the existing law on that subject. I will read it to you. Section 1629 of the Administrative Code of the Philippine Islands provides:

Every bank and every building and loan association engaged in business in the Philippine Islands shall on or before the 15th day of January, April, July, and October in each year, make a report to the insular treasurer. This quarterly report shall contain such information relative to the business of the person or institution making the report as may be generally prescribed in the regulations of the bureau of the treasury or as may be called for by the insular treasurer in special inquiries.

When made by a corporation doing business in the Philippine Islands as a branch of a principal institution in another country, such report shall specifically state all the details of the business conducted during the preceding quarter in the Philippine branch thereof, and shall also report the financial condition of its principal at the latest practicable period prior to the date of such report.

Forms of reports shall be supplied by the insular treasurer to all institutions of which reports are required in the Islands; and it shall be the duty of the insular treasurer therein to require the statement of such matters, as nearly as may be, as in the United States are required to be stated in the reports made by national banks to the Comptroller of the Currency under the laws and regulations there prevailing.

Mr. GUEVARA. Continuing, section 1630, concerning examinations into condition of institutions, reads as follows:

It shall be the duty of the insular treasurer, personally or by deputy, at least once in every 12 months, and at such other times as he may deem expedient, to make an examination of the books of every institution within the purview of this article in order to ascertain its cash and available assets in the Philippine

Islands, and its general condition and method of doing business, and to make report of the same to the secretary of finance, who will transmit a copy of the said report to the Governor General.

Every such institution shall afford to the insular treasurer and to his authorized deputy full opportunity to examine its books, its cash, its available assets, and general condition at any time when requested so to do by the treasurer: *Provided, however*, That none of the reports and other papers relative to the examination of banking institutions shall be open to inspection by the public except in so far as such publicity shall be incidental to the proceedings hereinafter authorized or necessary for the prosecution of violations in connection with the business of the bank.

The CHAIRMAN. How well is that being done?

Mr. GUEVARA. It is being well done and to the satisfaction of the government. So far as I know, no corporation has ever complained in regard to the performance of that duty.

The CHAIRMAN. When you were in trouble with your bank the present auditor was sent over there. That is, he was sent there as a national bank examiner, I believe.

Mr. GUEVARA. The Philippine National Bank is owned by the government, and when, it was alleged to have had some financial troubles that, in the opinion of the War Department, should be looked after by a special examiner, Mr. Wright and another auditor were sent to the Philippine Islands from the United States to examine the management and operations of the Philippine National Bank. But no complaint has been made against the insular treasurer on account of the manner in which he has discharged his duty in relation to examining private banking institutions.

The CHAIRMAN. I think perhaps I should place in the record our reason for putting the language you first quoted in this bill. It is only fair that members of the committee should know why that language was inserted. I have here [indicating] a cablegram from the Governor General of the Philippine Islands, in which it is said:

Insert provision transferring supervision and examination of banks, etc., to auditor's office. These functions are now entirely Filipinized. This is not warranted by experience of Filipinos in handling banking affairs. Banks are dissatisfied. Reasonable amount of American supervision necessary to protect both banks and public.

The CHAIRMAN. I desire to place that recommendation in the record simply to show why this provision is in the bill.

Mr. GUEVARA. It is the general consensus of opinion here in the United States that the present Governor General of the Philippine Islands is supposed to be the most able administrator we have ever had in the Philippine Islands.

Mr. UNDERHILL. Will you please repeat that?

Mr. GUEVARA. It is the general consensus of opinion in the United States that the present Governor General is supposed to be the most efficient administrator we have ever had in the Philippine Islands.

Mr. UNDERHILL. What is the opinion of the people of the Philippine Islands in regard to that matter?

Mr. GUEVARA. I do not desire to express an opinion as to that. I would not want to express an opinion that might possibly hurt the feelings of somebody here, especially in view of the fact that the bill now under consideration is fathered by the chairman of this committee with the highest motive. I would not impugn his motives, because I know they are high and pure.



Mr. THURSTON. But this committee is an adjunct of the Congress of the United States, and I take it we are entitled and willing to have any pertinent facts developed if they relate to the subject matter under discussion.

Mr. GUEVARA. The insular treasurer of the Philippine Islands, who is now in charge of the banking institutions, is under the control and supervision of the Governor General. Likewise, the auditor for the Philippine Islands is under the supervision and control of the Governor General. If the insular treasurer should not properly discharge his duties according to law and the policy of the Governor General, the Governor General has ample power to remove the insular treasurer.

The CHAIRMAN. Who are the bankers in the Philippine Islands?

Mr. GUEVARA. There are some Japanese, some Chinese, some Spaniards, some Americans, and some Filipinos.

The CHAIRMAN. As I understand, the Filipinos are not interested in banking, except as they are interested in the Philippine National Bank.

Mr. GUEVARA. Many of the Filipinos are stockholders in the Spanish banks, and some Filipinos are stockholders in the Chinese banks. Again, I believe that Filipinos have at least a small interest in practically all banks there.

The CHAIRMAN. Is it not possible that objections were made to the Governor General and you did not know about them? It is not reasonable to suppose that General Wood, the Governor General, would send this statement I have read to the effect that the banks were dissatisfied unless it were true.

Mr. GUEVARA. I believe I express the sentiments of the Philippine people when I say that they are satisfied with the present system of the examination of banking institution by the insular treasurer.

The CHAIRMAN. In view of the fact that the banks of the Philippine Islands are owned mostly by foreigners, is it not probable that they prefer to have an American auditor who is familiar with our banking laws in charge of their examinations of banks rather than have a Filipino? I do not say that as a reflection upon the honesty or efficiency of the Filipinos.

Mr. GUEVARA. That very reason ought to be enough to prevent the enactment of this bill into law, because that is a racial discrimination against the Filipinos.

Mr. UNDERHILL. The Filipino is given a first-class and fair show in the management of the Philippine National Bank, I believe.

Mr. GUEVARA. In what bank?

Mr. UNDERHILL. The Philippine National Bank. The Filipinos practically put that bank into bankruptcy. If the Governor General had followed the rules and regulations laid down by the Government for management of banks in this country, he would have closed the Philippine National Bank without a doubt. Perhaps he was remiss in his duties in not closing it. However, instead of doing that he tried to rehabilitate and reestablish the bank despite the loss of 60,000,000 pesos. The United States Government had to come to the relief of the bank by issuing bonds in order to reestablish it. It was plainly shown in the investigation that followed the trouble that the bank was grossly mismanaged, either purposely or through a lack of experience on the part of the officials connected with the

bank. I am not making any charges; I simply want this to go into the record to show that when the Filipinos were given an opportunity to handle the finances of the island, through the medium of the Philippine National Bank, those entrusted with that responsibility fell down on the job, and that the present situation comes perhaps more from a fear on the part of financial interests in the islands that sooner or later all these responsibilities may revert once more to the control of Filipino politicians.

The CHAIRMAN. I just want to call especial attention to the fact that the auditor for the Philippine Islands, subject to the supervision of the Governor General, would have the same jurisdiction and authority over all banking institutions in the Philippine Islands as are now or may be hereafter conferred upon the Comptroller of the Currency in the organization, examination, supervision, and liquidation of national banks in the United States. Therefore, we are only giving the same authority to the auditor that we have conferred on our Comptroller of the Currency.

Mr. UNDERHILL. I want it to appear in the record that the reason for this was based upon a situation which at least made the banking interests of the island uneasy.

The CHAIRMAN. That is undoubtedly what General Wood had in mind when he said, "This is not warranted by experience of Filipinos in handling banking affairs."

Mr. DALLINGER. Wherein does this bill take away any power from the Philippine Islands? If the man in charge of the banks may be removed by the Governor General at any time, where does this bill withdraw any power?

Mr. GUEVARA. The supervision of the banking institutions there is now entrusted to the insular treasurer, who is a Filipino, but this bill would transfer his jurisdiction and authority, now implanted by law, to the auditor for the Philippine Islands.

Mr. DALLINGER. The Governor General now has the power to appoint and remove anybody in that job, as I understand.

Mr. GUEVARA. Yes; that is true.

Mr. DALLINGER. Why has he not the same power under the present law or under the present bill?

Mr. GUEVARA. Then why change the law?

The CHAIRMAN. The Governor General, who is our representative, has recommended the change.

Mr. GUEVARA. Therefore it is a question whether his recommendation in this matter should be taken. I am glad that the gentleman from Massachusetts has brought up the question of the Philippine National Bank.

Mr. THURSTON. Will you please make a brief statement to substantiate your statement that the Philippine National Bank has not been mismanaged. It has been said in the past that the bank was mismanaged, and I would be glad to hear from you about it.

Mr. GUEVARA. As I said before, I am glad that this matter has been brought up by the gentleman from Massachusetts. I wish I had one or two days to explain the whole trouble of the Philippine National Bank, and the policy followed by that institution. There was no failure. There is no failure. If there is one, the Filipinos are not responsible for it. Americans are responsible for it, and I will

show you right now why I say they are responsible for any failure, if there is any failure in the Philippine National Bank.

Mr. UNDERHILL. The Filipino who once had charge of the Philippine National Bank is now in prison, is he not?

Mr. GUEVARA. Yes; the manager, Mr. Concepcion.

Mr. RAGON. If the former manager of that bank is now in prison, that is not a reflection upon the Philippine government. It is rather to their credit, if they found the crook and sent him to the penitentiary.

Mr. UNDERHILL. I just wanted to bring out that the Philippine National Bank was not altogether honestly administered.

Mr. RAGON. That entire matter was covered in a hearing we held two years ago by Mr. Roas in the presence of General McIntyre, and I do not think a single statement made by that gentleman was refuted. I would have members of the committee know that the record of that hearing is available.

Mr. GUEVARA. Mr. Concepcion, a Filipino, was appointed president and manager of the Philippine National Bank after Mr. Ferguson, an American had had charge of it. Mr. Concepcion had his hands completely tied by American direction. The bank was manned by American assistants. The Filipinos can not be blamed for the condition in which Mr. Concepcion found that bank when he took it over. The failure of it was largely due to the operation of one of its branches in Shanghai, which was managed by a Mr. Miller, who was an American. Mr. Underhill ought to know him well. In pointing out that Mr. Miller was an American, I do not mean to reflect adversely upon the American people, but I have to mention names in defending against the charge that the Filipinos were responsible for the condition of the national bank. That branch bank in Shanghai was engaged in speculating in exchange against the policy and direct orders of the central office in Manila, which was presided over by Mr. Concepcion. Mr. Miller, the manager of that branch bank in Shanghai, was improperly speculating in the exchange of money.

Mr. HARE. He was engaged in what?

Mr. GUEVARA. He was engaged in speculating in exchange of money. As a result of that speculation, which was against the policy and direct orders of the central bank presided over by a Filipino, ₱20,000,000 were lost. That was not the result of mismanagement on the part of a Filipino. That loss represented approximately 33⅓ per cent of the total losses of the Philippine National Bank.

Another cause of the failure of the Philippine National Bank was the loans made to American corporations in the Philippine Islands. The Philippine Vegetable Oil Co., an American corporation, borrowed money from the Philippine National Bank while Mr. Concepcion was president and general manager of the central bank. That concern borrowed millions and millions of pesos, with the security of its goods and its stock. At the time those loans were made by a Filipino to American concerns the securities posted were ample and good, but this deflation or depression that was world-wide made it impossible to realize on those securities, just as what happened in the United States and elsewhere throughout the world.

I hold no special brief for Mr. Concepcion, even though he is a Filipino, but I want to say for him that if our laws in the Philippines permitted manager and stockholders in banks to do as managers and

members of boards of directors of banks do in the United States, Mr. Concepcion would not have been imprisoned. He was imprisoned because he loaned money to concerns in which he held stock. That was the charge against him, and of which he was convicted. He did loan money to American firms and American business men and he lost for the bank by it, but he was not imprisoned because his judgment was faulty in evaluating securities or for embezzlement or misappropriation of funds of the bank.

Just think of the number of even national banks in the United States that are now in receiverships, especially in Kansas, North Dakota, South Dakota, Iowa, and the Southern States. How many banks, State and national, are now in receiverships in the good State of Iowa? When cotton, corn, and wheat suffered so much depression, how did the banks in States that raised such products fare? They fared just like the Philippine National Bank fared when its securities could not be liquidated. But I am not blaming your banks for a condition over which they had little or no control.

I am reliably informed that only within the last three or four years has the great State of Illinois declined to permit the operation of so-called private banks, which caused so much misery and unhappiness, within her borders. At one time those private banks in that great State were in nowise supervised, and the result is history.

However, Mr. Chairman, I do not mention these facts to embarrass anybody or any section of this country; but I do want it known far and wide that the loans made to American firms and American business men in the Philippine Islands by the Philippine National Bank, and not to Filipinos, were responsible very largely for the plight in which that bank found itself, so far as there was a human agency responsible.

Mr. WILLIAMS. Is that branch bank in Shanghai now?

Mr. GUEVARA. No.

Mr. UNDERHILL. Was all this mismanagement of the Philippine National Bank approved by Governor Harrison?

Mr. GUEVARA. No, sir.

Mr. UNDERHILL. Was he responsible, in your opinion?

Mr. GUEVARA. To the extent that he might have been.

Mr. UNDERHILL. The manager of the Philippine National Bank was not responsible, but the governor was.

Mr. GUEVARA. If he ever is I know he is honorable enough to assume responsibility for what he should be responsible of, according to the position he held.

The important point to remember is that all those losses in the operation of the Philippine National Bank, which amounted to millions and millions of pesos, were caused by operations of Americans. Sixty per cent of the total loans made by the Philippine National Bank and from which it suffered a tremendous loss were operations made with American business men and corporations and not with Filipino business men and Philippine corporations. This will show you the disposition of the Philippine people toward the American people in the Philippine Islands.

We have been charged with being antagonistic to American interests in the Philippine Islands. We appreciate what America has done for us, and we are willing to spend our last cent to protect and promote American interests in the Philippine Islands. And yet when we do

that and fail we are charged with inability to manage our own financial institutions and it is said that they should be entrusted solely to American hands.

Mr. RAGON. As I recall, there was a large sum of money in that bank that was loaned to the sugar centrals.

Mr. GUEVARA. Yes; that is true.

Mr. RAGON. I believe it was shown in the hearings we had two or three years ago that a considerable amount of money had been refunded or was in the process of being refunded by these sugar centrals who had gotten on their feet again.

Mr. GUEVARA. Yes; that is right.

Mr. RAGON. As I recall the financial difficulties of those concerns were largely due to the general depression that everything and everybody experienced at that time. That condition of depression was general all over the country.

Mr. GUEVARA. Yes, sir; it was a condition that prevailed all over the world.

Mr. RAGON. Are those concerns continuing to repay that money?

Mr. GUEVARA. Yes; they are repaying the money with interest and it is a money-making proposition for the Philippine National Bank.

Mr. Chairman, I wish to emphasize especially the fact that we do not oppose the coming of Americans into the Philippines. We do not oppose any American in any position in the Philippine government; but we do oppose any appointment, whether an American or a Filipino, if that appointment means discrimination against the Filipinos as a people. Nothing would make me happier than to see good Americans in larger numbers in the Philippine Islands, because I realize that the more Americans go to the Philippines the better will be the understanding between the Americans and Filipinos.

A statement was made here the other day that the Filipino members of the Philippine Legislature do not dare to vote for a bill increasing the salaries of American teachers. That is not well founded. I myself have been chairman of the committee on public instruction in the Philippine Senate, which committee has to do with appropriations for schools, as General McIntyre himself knows. Mr. Fisher, the then chief of the bureau of forestry and for whom we have a profound respect and admiration, once came to my office, when I was chairman of the committee on finance of the senate, to ask me to support and defend the appropriation for his bureau. I willingly and successfully complied with that request, and the electorate, I am happy to recall, approved my stand in that respect, despite the fact that the bureau I was supporting and defending was headed by an American. Mr. Fisher is within earshot at this time, and he can contradict me if what I say is not true.

Mr. WILLIAMS. Who has charge of that bank now, an American or a Filipino?

Mr. GUEVARA. He is a Filipino. Mr. Ferguson, an American, was president of the bank before Mr. Concepcion, a Filipino, was appointed.

Mr. BACON. Who was the former president of the bank?

General MCINTYRE. Mr. Concepcion, a Filipino.

Mr. GUEVARA. It is essential that members of the committee should understand the position of the manager of the Philippine National Bank. He is in fact only a figure head in that institution. The real manager of the Philippine National Bank is the Governor General of the Philippine Islands. That has been so in the past also. He is chairman of the board of control of that bank, and he dictates the policy of the bank. Any manager who opposes the policies of the Governor General does not or will not remain in his position in the bank. It is a fortunate thing that the losses sustained by the Philippine National Bank came about through operations with American corporations. If those operations had been between Filipinos and the Philippine National Bank, or between Philippine corporations and that bank, there would be a demand for removal of Filipinos from all offices on the ground that they are incapable of managing such affairs. They will be charged, also, of highly exaggerated corruptions. As I have said, the branch of the Philippine National Bank in Shanghai lost 20,000,000 Shanghai dollars on account of operations of Mr. Miller, its manager, without the consent and against specific instructions of the central office in Manila, and yet that failure is blamed upon the manager of the Philippine National Bank.

Mr. BACON. Who was Governor General at that time?

Mr. GUEVARA. Mr. Francis Burton Harrison.

Mr. DALLINGER. The commissioner has just stated that he believes Governor Harrison was responsible for that condition.

Mr. GUEVARA. The Governor General is in fact the manager of that bank and as such he dictates the policy to be pursued.

Mr. THURSTON. I understood you to say that, practically speaking, the management of the Philippine bank was in control of the Governor General.

Mr. GUEVARA. Yes; that is true.

Mr. THURSTON. How many directors are on the board of directors of that bank?

Mr. GUEVARA. It is a board of control consisting of three members.

Mr. THURSTON. Who are they?

Mr. GUEVARA. The Governor General is chairman and the president of the senate and the speaker of the house of representatives are members.

Mr. THURSTON. Therefore a majority of the board are natives of the Philippine Islands?

Mr. GUEVARA. Yes; that is true.

Mr. THURSTON. Would not the control of the bank rest in the majority?

Mr. GUEVARA. I will touch upon that. When the Governor General is on good terms with the president of the senate and the speaker of the house of representatives, practically they agree on the policy to be pursued.

Mr. THURSTON. When they are on good terms—when there is good feeling among the membership, the Governor General controls?

Mr. GUEVARA. Yes; his suggestions are most of the time accepted.

Mr. THURSTON. What has been the control during the last four or five years?

Mr. GUEVARA. The Governor General has been in control. He is chairman of the board of control.

Mr. THURSTON. What has been the feeling among the membership?

Mr. GUEVARA. There have been many dissensions among them, and that is the reason the bank can not do anything.

Mr. KNUTSON. You would not describe the present relations between Governor Wood and Quezon as being particularly cordial, would you?

Mr. GUEVARA. No.

Mr. THURSTON. You have stated that the control of the Philippine National Bank is in the hands of the Governor General, whereas there are three members of the board of control. Explain to me, if you can, how the Governor General is able to take away from the majority the control they are entitled to have.

Mr. GUEVARA. There is no such thing as a board of control now. It was abolished by the Governor General about three months ago.

Mr. THURSTON. These questions are asked simply to obtain information and not to embarrass you in any way.

Mr. GUEVARA. I understand that. I will be glad to give you all information I have.

The losses suffered by the Philippine National Bank were not due absolutely to mismanagement or improper operations of that bank. They were due largely to the prevailing circumstances all over the world after the war. For instance, some of the oil corporations in the Philippine Islands who borrowed money from the Philippine National Bank with the security of their goods, which was highly valuable during the war, were not able to pay after the war by reason of the general depression that followed. Even in the United States banks in the South and even in Iowa were hit hard at that time.

Mr. THURSTON. Many of those banks held sugar security.

Mr. GUEVARA. Yes; that is true. That depression was general, I believe, but the condition in the Philippine Islands, which was brought on by the same influences causing the depression elsewhere, were blamed upon the Philippine people.

I suppose all of you recall the wild-cat banks in the western part of the United States about 60 years ago, where one could get money simply if he were a friend of the boss.

Let the Philippine people learn from their own experience. Let them learn from a management of their own institutions. That is the only way you can lead them to self-government. Teach them that they must be diligent, because diligence and vigilance are the price of freedom. Everyone of us ought to learn from the lessons of our own experience, and to be able to distinguish the evil from the good thereafter.

Now, Mr. Chairman, I do not see any reason why the banking institutions of our country should be transferred from the supervision of the insular treasurer to the supervision of the auditor for the Philippine Islands. The Filipinos do not prefer an American to examine and supervise the management of their banking institutions. They believe that the rights of the bank and the rights of the people of the islands will be duly and properly conserved by having this

supervision of banks where it is now, under the jurisdiction of the insular treasurer.

So much for the provision of this bill that proposes to transfer the examination and supervision of banking institutions from the insular treasurer to the auditor for the Philippine Islands. Repeating, both of those officials are under the control of the Governor General. The only reason and the real reason for the transfer of this authority is to take from the hands of the Filipinos this authority and jurisdiction and entrust it to the hands of an American.

Repeating, I am not opposed to American holdings office in the Philippine government. It is a great help in many instances. We are trying to help them there, but we are opposed to the appointment of anybody in the Philippine government when such appointment would be a discrimination and humiliation to our people. You would not stand it here. Why should we stand it there?

Returning to a discussion of the question of the money collected in the United States on Philippine products coming here. In my statement of Saturday I gave a brief history of this money. I said then that this money is not in full a gift of this nation to the people of the Philippine Islands, but is rather a compensation for a loss suffered by the Filipinos on account of the repeal of their export tax law. Aside from this technical argument, and assuming as I do that this money is a gift from the United States to the people of the Philippine Islands, what have we done, Mr. Chairman, to justify the withdrawal of this donation from the Philippine people?

I remember very well that the United States Government shared in the Boxer indemnity to the extent of a few millions, and the United States Government did not stain its hands by taking that money; but the Government of the United States has exhibited a splendid morality and high principle to the world by giving that money back to the Chinese by way of supporting Chinese students in the United States. It is interesting to note that those who have been educated in the United States by this fund that was remitted by the American Government are now involved in the present troubles of China. I do not say that the money the United States Government gave back to China is responsible for the present revolution in China, but I do say that most of the leaders of the revolution in China and the Far East are students who went from the United States. Perhaps the American people should be proud of it and with more reason the American people ought to be proud that the Filipinos, taught by American examples, are fighting now for what they believe to be their right.

Mr. UNDERHILL. If Mr. Guevara withdraws his statement, I will make that statement as my own.

Mr. WILLIAMS. You said a minute ago that the government was going to take this money from you. It is not going to do that. This bill would only change the method of spending it for you; and that is what you object to.

Mr. GUEVARA. Why, I ask, deprive the Philippine people, through their legislature, of this money? The argument has been made that the Philippine Legislature has refused to provide money for American schools, and it is suggested that \$60,000 should be taken from this fund to provide schools for American children in Manila. I pledge my honor here that the belief of the American people that we are



antagonistic to the instruction of American children in Manila is erroneous. I myself would not only advocate the appropriation of that amount of money, but I would advocate the appropriation of more money.

Mr. BACON. Do you not know that Mr. Quezon told the Governor General he would not continue the appropriation for the American school?

Mr. GUEVARA. Mr. Quezon told me he was ready to communicate with the legislature and recommend its appropriation. He told me he would offer to the Governor General what money the Governor General needed to support those schools for American children. The Governor General declined the suggestion on the ground that there was a bill now pending in Congress that would dispose of this necessity.

Mr. BACON. This bill in Congress caused Mr. Quezon to experience a change of heart on that subject.

Mr. GUEVARA. I was a member of that legislature several years, and I always favored appropriations for that school.

Mr. BACON. But the fact remains that about a year ago Mr. Quezon did tell the Governor General that he would not continue the appropriation for that American school.

Mr. GUEVARA. Granting that such is true—would you stand for an appropriation here for the support of a Filipino school in the United States?

Mr. BACON. If they wanted one; yes.

Mr. GUEVARA. I do not believe you would. Why make us take the pill when you yourself will not take it?

Mr. UNDERHILL. Here in the city of Washington, the Capital of this Nation—I regret somewhat to introduce this subject—we have two types of schools—two classes of schools for two different races. That is not because of a discrimination, but it is because the colored people themselves demand it. They want it. In the Philippine Islands the American citizens there want a different standard of schooling, and a different type of teaching, than that now provided in the Filipino school. Why are the Americans not entitled to have that, when right here in the city of Washington we provide for a very similar condition?

Mr. GUEVARA. We do not object to that. If we did object to it, the American school would not have existed, because the legislature would have withheld money for its support. The existence of that school now is a proof that the Filipino people were not opposed to such a policy. The legislature might have refused, in its wisdom, to increase that appropriation.

Mr. KNUTSON. How many American children go to the American school in Manila?

Mr. GUEVARA. Sixty or one hundred.

Mr. KNUTSON. How much are you appropriating for the support of that school?

Mr. GUEVARA. It is included in the general appropriation for the bureau of education.

Mr. HUDSON. That is \$1,000 to the pupil.

Mr. KNUTSON. There are about 600 students, I understand.

Mr. DALLINGER. If I may ask, how much longer is this hearing going on?

Mr. UNDERHILL. I am only acting chairman, and therefore I can not say.

Mr. DALLINGER. I had understood that we were to go into executive session at 11 o'clock.

Mr. KNUTSON. That was the agreement for Saturday.

Mr. DALLINGER. If we are going to continue these hearings much longer we might as well give up hope for any action at this session of Congress. Personally I think we ought to close this matter to-day if we can.

Mr. SABATH. I think if the commissioner is allowed to go on uninterruptedly he will be able to finish in a very short while.

Mr. UNDERHILL. Proceed, Mr. Guevara.

Mr. KNUTSON. If I may speak first, we want to hear Mr. Williams before we go into executive session. I must insist on that.

Mr. GUEVARA. I wish the Philippine Legislature would be given a chance to show whether or not it is ready to appropriate more money for the American children in the Philippine Islands. Sixty thousand dollars will be provided for American schools there.

Mr. KNUTSON. In the 1926 appropriation act you have the following proviso:

*Provided, That no appropriation made for the bureau of education may be expended for the establishment, maintenance, or operation of schools where racial or religious discrimination is made in the admission of students.*

Has the Philippine government held up that \$60,000?

Mr. GUEVARA. No: that is the reason the school system is in operation. If there was not an appropriation, the teachers could not be paid.

Mr. KNUTSON. If that is an American school, how could you pay them under this section I have read? It says, "where racial discrimination is made in the admission of students."

Mr. GUEVARA. There are Filipinos in the American schools.

Mr. BRUMM. They are the children of Army and Navy officers, children of American civil employees of the Government there, and children of business men temporarily residing in the Philippine Islands.

Mr. KNUTSON. I will say that the parents of 160 of these children are in the Government service; then there is a group of children belonging to Army and Navy officers.

Mr. HARE. I gather from your statement that the establishment of this separate school for the Americans is not a discrimination, but is along the lines that we have here in the District of Columbia of two separate schools, as has been suggested by the acting chairman.

Mr. GUEVARA. There is no discrimination, because the boys of Filipino parents attend those schools.

Mr. HARE. The existence of these two schools would not be in violation of the appropriation act just read by Mr. Knutson?

Mr. GUEVARA. No; because Filipino boys go to those schools.

Mr. UNDERHILL. That is in order to save the appropriation.

Mr. GUEVARA. The American children attend Filipino schools in some Provinces.

Mr. HARE. Do you refuse to supply this school out of this appropriation?

Mr. GUEVARA. The Philippine government can take care of it. This amount is \$60,000 out of \$750,000.

Mr. SABATH. But it is being maintained now and appropriated for by the Philippine Legislature, and that has been so for many years.

Mr. GUEVARA. Yes; many years.

Mr. UNDERHILL. With the proviso as written into the law.

Mr. BRIGHAM. But if the Filipinos did not attend this American school it could not receive support from the Philippine appropriation act.

Mr. UNDERHILL. If any pupil of any race should be barred from the school by reason of its race or religion, the legislature would refuse to continue the appropriation.

Mr. HUDSON. Does this bill pretend to say that when this appropriation is made a Filipino boy can not attend that school?

Mr. UNDERHILL. It would be a school exclusively for American boys. We made it so in this \$60,000.

Mr. HUDSON. I did not realize that this would be an exclusive school.

Mr. UNDERHILL. That is the purpose of this.

Mr. HUDSON. I thought it was for the purpose of a higher standard of education and one more in harmony with the educational system of the United States.

Mr. KNUTSON. In a conference between the Governor General and the leaders of the Philippine Legislature in 1926 it was agreed that the proviso I read a little while ago might be stricken out, with the understanding that provision would be made for the schooling of American children from a source other than the insular treasury.

Mr. WILLIAMS. I had understood that it was intended to make this a restricted school, and that Filipinos could not attend it. Is that the intention of the bill?

Mr. UNDERHILL. Yes; the same as we have it in Washington, where white pupils do not attend colored schools and colored pupils do not attend white schools.

Mr. WILLIAMS. Do not the Filipinos attend the schools in this country?

Mr. UNDERHILL. Yes; in very large numbers.

Mr. GUEVARA. I refuse to believe that we are going to be placed in the same conditions with which the colored people is subjected in the District.

Mr. KNUTSON. There is no intention or thought of anything of that kind on the part of the committee, unless I am mistaken. That is the statement of Mr. Underhill.

Mr. BRUMM. I am not bound by that, I will tell you frankly. If I thought this was a matter of discrimination, I would vote against this bill at once.

Mr. KNUTSON. We are not discriminating against Filipino students here. They go to our own schools and are accepted on terms of equality.

Mr. DALLINGER. You have not said whether you were aware of an agreement between the Filipino leaders and the Governor General that there should be a school provided for out of American funds. Do you know anything about that agreement, if such there is?

Mr. GUEVARA. No; our leaders have no right to make such an agreement. I refused to believe that they did it.

Mr. UNDERHILL. If I may interrupt Mr. Guevara without showing any discourtesy, I would like to ask the chairman of the probability

of this bill, even if reported unanimously by the committee, being enacted into law at this session of Congress.

The CHAIRMAN. I can only say that it will be brought before the House if it is reported by this committee, but I can not say what the action of the House may be.

Mr. UNDERHILL. When do you propose to bring it before the House?

The CHAIRMAN. This week.

Mr. UNDERHILL. And then it would have to be debated and decided upon in the House before going to the Senate?

The CHAIRMAN. That is right.

Mr. UNDERHILL. Is there any probability that the Senate will pass such a bill as this?

The CHAIRMAN. Mr. Underhill knows as much as I do about the chances for this bill in the Senate. It is easy to talk a bill to death in the Senate, as you know.

Mr. UNDERHILL. I desire to make a statement for the record at this time. Perhaps it will save time.

Mr. CHAIRMAN. I want to be perfectly frank and express my own views, which are based upon some knowledge of the situation and conditions which exist in the Philippine Islands. I probably am the only member of this committee who has visited the Philippine Islands recently.

The CHAIRMAN. With the exception of Mr. Bacon.

Mr. UNDERHILL. Yes; that is true. I think I may pause here long enough to pay Mr. Guevara the compliment that he has presented his side of this question in an able manner. However, like many other speeches made in Congress by all of us, some of Mr. Guevara's remarks were for home consumption.

Unless there is an absolute certainty that this bill will pass at this session of Congress, we ought to discontinue hearings and refuse to take further action. The failure of this bill to pass at this session of Congress will be more embarrassing to the Governor General than the bill itself if it were passed.

I do not consider the bill as it is now written one that I can support. In the first place it discredits the Governor General of the Philippine Islands. It takes from him some of the responsibilities and prerogatives that the Jones law intended he should have and which during the Harrison administration were usurped by the Legislature of the Philippine Islands with the knowledge and consent of the Governor General at that time.

What this Congress should do is to have either the courage to get out of there or to stay in and preserve the dignity and respect of the representatives, and especially the chief representative of Congress and the United States. What we need in legislation is to separate the executive from the legislative and to give the Governor General of the Philippines—to return to him—that which was abrogated during another administration. This bill does not do that. It places in the hands of Congress the expenditure of hundreds of thousands of dollars for a country 8,000 miles away, of which few Members of Congress know anything whatever, and takes it away from the Governor General, who is on the spot and knows the needs of the country. I do not mean or desire to cast any reflections upon the Filipino people. I have found them to be very courteous and hos-

pitable, and in many instances even delightful. There is a group, however, which, up to recently, had held full sway and political power in the Philippines, and they represent only a small minority of the Philippine people. They have perfected the art of intimidation, and up to recently nobody has dared to oppose them.

In this morning's paper dispatches from Manila carry the information that one Filipino has taken the bit in his teeth and a group of more than 700 Filipino veterans unanimously reelected him to the position sought by Mr. Quezon, and expelled Mr. Quezon from the organization. The gentleman to whom I refer has advised the Filipino people that they should get back of the Governor General, and that they owe and should pay to the United States loyalty and allegiance. There is a rift in the clouds over there. There is a new order.

We do not want to do anything in this committee or in Congress that is going to injure Aguinaldo or General Wood—anything that would give encouragement to that group to which I have just referred.

I know the Philippine character to some degree, and if this bill is presented to Congress and fails of passage, the political elements in the Philippine Islands will take the credit for that failure, and will make tremendous political capital of it. Therefore I declare that, so far as I am able, I am going to take the responsibility of defeating this bill in committee. I am opposed to Philippine independence at the present time or for any time in the near future. I believe that if let alone and the powers of the executive and the legislative are properly defined in the Philippines, they will work out their own salvation, and we will thereafter hear less and less and less of this agitation for independence, and those who are using it for political purposes solely will be discredited. It will not be long before we will be living in harmony, concord, and happiness with the Philippine people, just as we are living in harmony, concord, and happiness with our other insular possessions, notably Porto Rico and Hawaii.

If we are going to remain in the Philippines there is one thing paramount to all others, and I shall stand for it if I have to stand alone, and that is to preserve the dignity of those officials whom we are sending over to the Philippines as our representatives. I shall resent every attempted insult from now on which is offered to our representatives in the Philippine Islands. I shall resent even the puerile, mean, insignificant act of naming a square in front of the Governor General's office Independence Square, and putting a sign there to stare the Governor General in the face and insult him every time he enters his own home. I shall resent all these little peccadillos on the part of politicians over there who would make it appear that General Wood is not doing a valuable and constructive work, not for the American people but for the Filipinos themselves. I shall resent and do resent here publicly Carmi Thompson's coming home with a report and going out of his way to discredit those military officials who are there at a sacrifice to themselves and who have been giving such wonderful service under adverse circumstances.

Methinks there is a "nigger" in the woodpile.

Mr. HUDSON. This is an open hearing and not an executive meeting. I do not think that Mr. Underhill should be allowed time to make such

a statement as he is making, any more than any other member of the committee should be allowed to do it.

Mr. UNDERHILL. I stand upon my rights as a citizen and as a Representative in Congress to be heard here. I waive my rights as a member of this committee. What I have to say is of sufficient importance to go in the record.

I am going to make a motion, and this is all preliminary to my motion. It is this, that further consideration of this bill be dispensed with and no further action be taken at this session. I ask that a vote on this motion be taken in open rather than in executive session—that is not against the rules—in order that we may get the consensus of opinion of members present.

Mr. KNUTSON. As a substitute for that I move that we go into executive session.

Mr. HUDSON. I second that motion.

The CHAIRMAN. The Chair had no more knowledge of what Mr. Underhill desired to say than any member of the committee.

All in favor of the substitute motion of Mr. Knutson will make it known by saying "Aye."

(The motion was lost by a vote of 8 to 6.)

Mr. HUDSON. After four years of work on this committee leading up to this bill, are you going to vote on the question of killing it without any discussion of the motion made by Mr. Underhill? I do not understand that. Of course, Mr. Underhill has been to the Philippine Islands and has formed his own opinion; but I do not believe that opinion should be forced upon us.

The CHAIRMAN. It ought to be discussed, and I am willing to recognize any member of the committee.

As author of this bill, I think I should say a word at this time. This bill does not contain all that I personally would like to have in it. I would follow Mr. Underhill to a certain extent and probably have a more drastic measure; but I have given considerable thought and study to this as chairman of the committee, and have talked with those most interested in it. We have finally compromised on this bill, which would carry out the purposes stated in the title. It would clarify the duties of the auditor for the Philippine Islands, about which there is much dispute. It would provide a court of claims, such as the Legislature of the Philippine Islands has tried to provide. It would raise the salaries of officials appointed by the President of the United States and which the War Department for the last 10 years has been trying to increase.

While the bill does accomplish all the things that Governor General Wood has strongly recommended, I believe it would be very helpful if the bill could be passed in its present form. As Mr. Hudson says, we have been discussing this matter for a long time.

Mr. RAGON. How long have we discussed this particular bill?

The CHAIRMAN. We reported out a bill last June after quite extensive hearings on the auditor portion of this bill and the court. The only new feature introduced is the matter of revenues and the raising of the Governor General's salary. In the bill on the calendar we raised the salary of the auditor and gave him an assistant. As I have said, the only new feature in this bill is in regard to the revenues.

The bill under consideration is not as drastic as the one on the calendar with reference to the auditor. We have modified that bill

at the suggestion of former Supreme Court Justice Fisher, and others who are familiar with conditions in the Philippine Islands. We have accepted such suggestion which are regarded as constructive and as not being opposed to the purposes of the legislation. We have the absolute approval of the War Department of this bill, and I feel that we have a good bill in H. R. 16868. It will not harm the people of the Philippine Islands in any way. We are modifying only three sections of the Jones Act, which contains 33 sections. I do not think we are taking any autonomy from the people of the Philippines. It would seem to me an unusual procedure for the committee at this time to drop consideration of the bill.

I can not promise that the bill will pass the House or the Senate, but as chairman of the committee, I think we ought to report this bill favorably. If we can not pass a bill as moderate as this, what hope would there be for passing a bill such as Mr. Underhill favors?

Mr. JENKINS. Regardless of the merits of the bill, I do not think it is as much at stake now as the merits of that motion. While I am a new member here, yet on other committees on which I have served we proceed in an orderly manner. I think it is very much out of order to take the action suggested on the remarks of one individual in open session. Regardless of what we do with this bill, we ought to do it in an orderly manner. We ought to defeat this motion and let the procedure go ahead in executive session, and there do what we wish.

Mr. BACON. Before final action is taken on this matter I want to hear Mr. Williams. He has been out here a long while and I think we ought to hear him before we close. He lives in Boston and has been before the committee for four days waiting to be heard.

Mr. UNDERHILL. I will withhold my motion in order to hear from Mr. Williams.

Mr. KNUTSON. We have only 15 minutes left.

The CHAIRMAN. Mr. Guevara, will you yield to Mr. Williams at this time?

Mr. GUEVARA. Yes; certainly.

Mr. UNDERHILL. I move that we meet at 10.30 o'clock to-morrow morning, and that Mr. Williams be given such time as he desires.

The CHAIRMAN. All in favor of that motion make it known by saying "Aye."

(The motion carried unanimously.)

Mr. SABATH. I move that Mr. Guevara be allowed to proceed until adjournment.

The CHAIRMAN. We can hear Mr. Guevara until adjournment time.

Mr. RAGON. I had thought the chairman intended to bring up the matter of the Virgin Islands. Since I have the floor and nobody has spoken for the minority, I will suggest this in a brief statement: I can not see a chance in the world for the bill we have here passing at this session of Congress. I do not think that is the fault of any particular man or particular crowd of men. This bill should have been introduced earlier and given to a subcommittee to hear witnesses on both sides. If we are going to give the power in this bill, I am with Mr. Underhill. I would not undertake to appropriate for the things of first importance in the Philippine Islands, such as health, sanitation, and education.

We are not frank, and that is the trouble in the entire consideration of this bill. An effort is made in an underhanded way—I do not mean that exactly—to avoid a fight to decrease or diminish the power of the Philippine government. Why not make that open? These hints are going around. Every man here knows what is in the air. If this is a good thing, let us do it, and if it is not a good thing, let us not do it. We are going to have opposition. But if this is a good thing, why camouflage about it? These are my sentiments.

I do not believe you can any more pass this bill than a June bug can roll a bale of cotton over the Rocky Mountains. There are some good filibusterers over in the Senate. Perhaps we can get this bill through the House, but I know the sentiment against it in the Senate.

Mr. HUDSON. Do you not ever try to pass legislation without assurance that the Senate will pass it?

Mr. RAGON. That is not it. This is a half-baked matter, and we may consider it in open session or in closed session. It is a question of whether we will take it up here. I grant you that so far as the bill is concerned in its present form, I would not vote for it.

Mr. SABATH. But for different reasons than Mr. Underhill has.

(Thereupon, at 12:10 o'clock p. m., the committee adjourned to meet at 10 o'clock a. m. Tuesday, February 8, 1927.)

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INSULAR AFFAIRS,  
*Tuesday, February 8, 1927.*

The committee met at 10.30 o'clock a. m., Hon. Edgar R. Kiess, (chairman) presiding.

The CHAIRMAN. The committee will come to order.

I want to make it clear to the members of the committee that Mr. Williams, who was editor for many years of the Boston Transcript, later of the Boston American, and now editor of Universal Service, is here at my request. I learned that Mr. Williams had just returned from the Philippines after spending four months there, and believing that he could tell us some interesting things about the conditions, I invited him to appear before the committee. I take pleasure in introducing Mr. James T. Williams, jr., of Cambridge, Mass.

Mr. J. T. WILLIAMS, Jr. I appreciate the invitation of the committee. I shall try to give, as briefly as I can, an account of conditions in the islands as I found them during the nearly four months that I spent there last summer and autumn.

In Latin American countries it is customary, I believe, to begin a public statement by giving your status. While editor of the Boston American, I went to the Philippines as editorial representative of the Hearst newspapers. My instructions were to make a careful, independent, and impartial study of present conditions throughout the Philippines, with a view to writing a series of articles setting forth the facts as I found them for the newspapers of Mr. William Randolph Hearst, which are published in some 16 cities of the United States—north, east, south, and west.



The Chinese have a saying that "a picture is worth a thousand words." In the few words that I shall impose upon you to-day, I shall try to give you the picture of the Philippines as I saw them and of their peoples as they received me. When I have concluded, I shall be glad to answer as best I can any questions the members of the committee may care to ask me.

Leaving Boston on the 9th of June, 1926, I sailed from Seattle on the 15th of June, aboard the steamship *President Grant* (Captain Jensen, of the Admiral Oriental Line), and arrived at Manila on the 9th of July—a month to the day from the time I left Boston.

The Philippines were in the midst of the rainy season, so-called. I had been led to believe that it was not a good time to visit the islands. I was agreeably surprised to find that you do not encounter very much difficulty in getting around during the rainy season, which lasts, I believe, as a rule, from June until November. There were rains every few days and some time every day for a week during July, August, and September, but there were few days when the sun did not shine some time during the day. It was possible to get fairly well over the islands. After the first few weeks a visitor is not inconvenienced by the humidity that hits you pretty hard when you first land in Manila in midsummer. In fact, once I got into white clothes and stopped trying to cover the whole city of Manila in one morning, the climate did not bother me much. Visitors during the early days of their stay in the Philippines are apt to make the mistake of not slowing down their pace and taking things easier than they do in colder countries.

From the 9th of July to the 23d of October I studied conditions in the Philippines as best I could. Carrying letters from Chief Justice Taft, who was the first civil governor of the Philippines, and from W. Cameron Forbes, who was one of his successors, from the Secretary of Commerce, Mr. Hoover, the Assistant Secretary of War, Col. MacNider, the organizer and former Chief of the Bureau of Insular Affairs, Maj. Gen. Clarence R. Edwards, United States Army, the Roman Catholic archbishop of Boston, Cardinal O'Connell, and others, to the Governor General and other officials of the Philippine government, and to Americans and Filipinos and Moros throughout the archipelago, I was enabled soon after my arrival to establish contacts that were of great assistance in my inquiry.

I traveled as far north as Haight's place beyond Baguio, more than 150 miles north of Manila, through the Visayans and to the southern islands as far as Jolo in the Sulu Archipelago and Davao on the island of Mindanao.

It is possible to motor over a good part of the island of Luzon. By making your headquarters in Manila you can motor from that city to many of the surrounding Provinces and get a good glimpse of the real life of the real people who make up the population of that particular region.

Instead of making a rapid sight-seeing trip through the islands, I found it more helpful to spend some time in Cebu and other cities and towns meeting the people and seeing the surrounding country. Among the other larger cities and towns which I visited and from which I made trips to the surrounding country were Iloilo, Jolo, Zamboanga, and Davao to the south and Baguio to the north, and

many towns lying between that beautiful summer resort 5,000 feet above the sea and Manila.

It was especially interesting to see how rich in natural resources most of the islands are, and especially the island of Mindanao. Through the courtesy of the Army and Navy I was permitted to do some flying on the island of Luzon and the island of Mindanao. From the air you get an excellent view around Davao, for example, of the hemp fields and coconut groves, in which a few Americans and a great many Japanese have made large investments. Latterly the Japanese have been very successful in their modest attempts at colonization. They are bringing in a good type of immigrant, who soon proves his skill on the hemp plantations.

Through the courtesy of General Aguinaldo, to whom I was presented by Governor General Wood, as I was to all the other chief officials of all branches of the Philippine government, I was accorded the privilege of speaking to some thousands of the "veteranos" who fought under Aguinaldo, first against Spain and later against the United States. These men are for the most part to-day loyal hard-working, peaceful citizens of the islands. They represent the general contentment that you find almost everywhere in the Philippines. As an ultimate aspiration, they look forward some day to complete self-government in some form, but they appear to be deeply appreciative of what the United States is doing for them, and as you know, their leader, General Aguinaldo, has refused to accept any political office and is an outstanding supporter of Governor General Wood's administration. I heard Aguinaldo tell the "veteranos" that "the best friend of the people of Philippines in all the world is Governor General Wood." That seemed to be the impression through most of the islands, the main exception to that rule being a comparatively small group of "politicos" who are, for the most part, followers of a Manila group much given to agitation against the fidelity of the Governor General in enforcing the Jones law as it is written.

Throughout the islands I found tranquillity and nothing but good will from the great mass of the population toward an American. There is a little hotbed of anti-American agitation in and around Manila, for which the political bosses of the legislature seem to be solely responsible. Of a very different sort is the unrest you find in Mindanao, where the Mohammedan Moros in particular object to being governed by Filipinos from the north of entirely different race and religion. In Mindanao, the complaint is that there is not enough American participation in the government of the islands.

The finances of the Philippines to-day are in better condition than they have been for years. The budget has been balanced and the legislature passes the Governor General's budget every year. There is no large inrush of American or foreign capital. There is considerable complaint by representatives in the Philippines of American and foreign capital on this score. They argue that uncertainty regarding the future status of the Philippines has had a chilling effect upon investments from the United States. Well, that is probably true, but nevertheless the islands are paying their way at the present time, and the native inhabitants of the islands are better off than they have been—better off governmentally, economically, physically, and morally.

There are many public improvements that could be made with advantage and they will be made as the revenues of the islands increase.

A better administration of the educational system is needed and would have been supplied long ago but for the opposition of a little group of Filipino politicians to American efforts to improve the system. There is no denying that at many points the government of the islands can be strengthened to the advantage of the inhabitants when there is more revenue available and when there is less obstruction by a little group of Manila "politicos" to the enforcement of the organic law—the Jones law.

But, gentlemen of the committee, believe me, there is no crisis in the Philippines to-day as we understand the word "crisis." There is no occasion for this or any other committee to be stampeded into any hasty or radical commitments one way or another regarding the future of the Philippines by reason of any condition existing there at the present time.

I emphasize this because there has recently been launched what I would call a premature movement toward conciliation between absolutely irreconcilable elements. You can not conciliate two groups, one of which is standing for "a government of laws and not of men," and another group standing against "a government of laws" and for a government of a few men, meaning themselves. Now, I think that if this committee should throw the weight of its influence to the forcing of a hasty conciliation between those irreconcilable elements, you would undo a very great deal of the work of salvage and redemption that has been going on there in the last five years under the leadership of Governor General Wood.

Now, it has been said that there is an attitude of noncooperation between the executive and legislative branches of the islands government. I was deeply interested in that and I give my personal observations. There is not much change in that situation from the situation that existed when in a letter to the speaker of the Philippine Legislature, which has been published by the Congress of the United States as a public document, the President of the United States went very thoroughly into the question of noncooperation between the executive and the legislative branches of the government. In his letter, too, as a result of his study of several years ago, he placed the full blame for that noncooperation on the shoulders of a group controlling the legislature which has refused to remain within the organic act, and is endeavoring to usurp the powers of the executive in violation of that act.

Listen to what President Coolidge said on this subject in one of the ablest state papers of his administration—the letter which he addressed on February 21, 1924, to the speaker of the House of the Philippine Legislature. In reply to the protests that the Governor General was responsible for any lack of cooperation between the executive and legislative branches of the Philippine Government, President Coolidge said in his letter to Speaker Roxas:

One who examines the grounds on which are based the protests against the present situation is forced to conclude that there has not been, thus far, a full realization of the fundamental ideals of democratic-republican government. There have been evidences of a certain inability or unwillingness to recognize that this type of governmental organization rests upon the theory of complete separation of the legislative, executive, and judicial functions. There have been

many evidences of disposition to extend the functions of the legislature, and thereby to curtail the proper authority of the executive. It has been charged that the present Governor General has in some matters exceeded his proper authority; but an examination of the facts seems rather to support the charge that the legislative branch of the insular government has been the real offender, through seeking to extend its own authority into some areas of what should properly be the executive realm.

The Government of the United States has full confidence in the ability, good intentions, fairness, and sincerity of the present Governor General. It is convinced that he has intended to act and has acted within the scope of his proper and constitutional authority. Thus convinced, it is determined to sustain him; and its purpose will be to encourage the broadest and most intelligent cooperation of the Filipino people in this policy. Looking at the whole situation fairly and impartially, one can not but feel that if the Filipino people can not cooperate in the support and encouragement of as good an administration as has been afforded under Governor General Wood, their failure will be rather a testimony of unpreparedness for the full obligations of citizenship than an evidence of patriotic eagerness to advance their country. I am convinced that Governor General Wood has at no time been other than a hard-working, painstaking, and conscientious administrator. I have found no evidence that he had exceeded his proper authority, or that he has acted with any other than the purpose of best serving the real interest of the Filipino people. Thus believing I feel that I am serving those same interests by saying frankly that it is not possible to consider the extension of a larger measure of autonomy to the Filipino people until they shall have demonstrated a readiness and capacity to cooperate fully and effectively with the American Government and authorities. For such cooperation I earnestly appeal to every friend of the islands and their people.

That condition there described is precisely the condition that I found to exist. I have no authority to speak for him—I can only quote from his public utterances in the Philippines and since he came home—but as a result of six weeks' study of the situation, Mr. Henry L. Stimson, of New York, came to the same conclusion.

Now, I think any one of you would find, as I found, that the government is going on pretty well, as I say; that it is in excellent financial condition; that business has been good and law and order prevail. That is not to say that there is not some corruption in government. There is. There is more there than there ought to be. But public order is everywhere manifest and there are few crimes of violence. It is a very heartening condition to go through the Orient and finally arrive in Manila and the Philippines and find there that under American sovereignty there are no beggars, and there are no rickshas, in the Philippines. You travel in the Philippines by automobile or by carriage or other vehicle, but a fellow human being does not drag your vehicle through the streets, as he does in some other countries in the Orient.

There is widespread contentment throughout those islands and I am glad in this presence to acknowledge the great courtesy and spirit of hospitality that my fellow Americans and their Filipino and Moro friends showed to me, a stranger from the land that exercises sovereignty over them.

I should say also that I was delighted to find that the Governor General's general health is excellent. He has had two operations for hernia—one of them while I was there, a fairly serious operation. He has made a remarkable recovery from both and one that encouraged all the people over there. And I say "all the people" because no American could help being impressed by the manifestations of esteem and respect that came from all over the islands to the hospital while he was there flat on his back. As Governor General, General Wood is doing a day's work that, with all due respect to the

diligence of Senators and Representatives in Congress, I don't believe one of them would like to invite a comparison between their day's work and his. He is coming home on a vacation. He is coming home about April, and he is going back, if he is permitted to go back, as he has every reason to believe that he will be; and he is going to stay on that job as long as his health continues to be as good as it is to-day, and as long as it is the wish of his Government that he remain there.

Now, you may well ask, "Why do you digress from your main theme and dwell upon the health of the representative of the American sovereignty in the Philippines?" I do that, gentlemen, for this reason: While I very much appreciate the invitation of this committee, I do not labor under any hallucination about the price that a plain citizen, even as far away from Manila as I am now, must pay for presuming to tell the truth publicly about conditions over there. What is that price? Within 48 hours from the time he speaks, he will be vilified in newspaper after newspaper in the Philippine Islands. He will be denounced publicly by the Manila oligarchy of politicians. That which he says will be misrepresented, just as the condition of the Governor General's health has been misrepresented over there and misrepresented over here, because freedom of the press and freedom of speech and freedom of thought do not exist in the Philippine Islands at the present moment.

I can illustrate. Soon after General Aguinaldo made one of many speeches he has recently made praising Governor General Wood's administration and telling his "veteranos" that "the best friend" they and their people "have in all the world is Governor General Wood," Aguinaldo was denounced on the floor of the Philippine Senate by the head of the Manila oligarchy as a "traitor."

And any other Filipino that dares stand in public and say what General Aguinaldo is saying will be denounced by the same group as a traitor, and any American who presumes to speak the truth and run counter to the picture that has been drawn of conditions there by the group that rules the legislature, will be similarly vilified by the ruthless group of politicians that are in turn bossed by the head of the Manila oligarchy.

Now, that phase of the conditions over there is a bit depressing, because the Stars and Stripes are flying over the Philippines to-day—the emblem of American sovereignty. But that only, it seems to me, calls for patience and for firm assumption of responsibility on the part of those who are administering that "sacred trusteeship," as it has been defined. Although not a lawyer, I have been told by lawyers that when you are administering "a sacred trusteeship," you do your duty by your ward rather than always striving to please your ward.

Some one will say, "Well, then, if all these things are going so well, what is the occasion for any legislation?" Well, I want to be very frank on that point, Mr. Chairman, in order that no member of the committee may be under any erroneous impression as to my commitments as a private citizen and as an observer in the Philippines. After conferences with many groups, with natives, Americans and foreigners, I came to these conclusions: That there are a few changes in the organic act of the Philippines which its operation

over a period dating from 1916 until the present proves might wisely be made with one purpose and with one purpose only—to perfect that law and better the administration of the government set up by that law.

But I am also frank to say that I know of no amendment to that law—committed as I am to several—that could possibly do in the Philippines good in a quantity that would balance the harm that would be done there to-day were any such legislation passed here through either House of Congress by a strictly party vote. And therefore, for one, I am entirely convinced that even though there are several amendments to the law which I came to the conclusion should be made, I am entirely willing that we should take our time, the Members of the House and the Members of the Senate.

I can best illustrate what I am driving at by quoting from House Document No. 1446, issued by the Sixty-second Congress at its third session. That document contains an interview which the late Cardinal Gibbons, Roman Catholic archbishop, of Baltimore, gave to me as editor of the Boston Evening Transcript in February, 1913, on the subject of the Philippines. He took the ground that the Philippine problem belongs to the whole American people. Here is what he said in part:

The future of the Philippine Islands is a problem that belongs to the whole American people. At no time should it be considered from the standpoint of partisanship. To its solution the best thought of the country should be devoted, and the efforts of our Government in that direction deserve the loyal support of all Americans without regard to creed, religious or political.

It seems to me that this counsel should be taken to heart to-day, that it applies with even greater force now than when it was given. I believe that almost all the members of this committee share the desire to legislate with regard to present conditions in the Philippines, not from the standpoint of partisanship but solely from an American point of view, and “without regard to creed, religious or political.”

Now, I was committed to the two bills, sir, that were introduced by you—the Kiess bills. One of them has been reported, as I recall, and one has not been reported to the House. But I understood that the purpose of the bill dealing with the auditor was to clarify the duties of the auditor under the Jones law so as to give him more power than he now has as a result of the decision of the court. I was heartily in favor of that bill because it seemed to me that it would strengthen the hands of the auditor to go even farther than that high-minded public servant, Ben F. Wright, has been able to go in halting corruption in the government over there. But when I heard it said here that the effect of this bill as amended would not be to increase his power, my ardor for its immediate passage cooled. I hope that I misunderstood the interpretation of the proposed amendment, because I understood that the whole purpose of clarifying the auditor's duties was to increase his power. Not being a lawyer, I do not know whether that is the effect of the bill; and I, as a plain American citizen, would want the judgment of some subcommittee made up of both Republicans and Democrats and on which lawyers sit before this bill is passed.

Now with reference to the second part of the revised Kiess bill, let me say this: I advocate strongly strengthening the position of the Governor General, who is the chief executive of the Philippines, by

giving him what he ought to have had long ago, and what President Coolidge and Chief Justice Taft think he ought to have to-day, namely, American experts in administration and supervision.

There should be on the staff of the Governor General at this very minute an expert in banking and finance, an adviser on legal matters, an adviser on matters involving foreign affairs, an expert upon trade and commerce, especially international trade and commerce. In addition to these, the Governor General ought to have the assistance of an American expert in science and research, in public health and sanitation, and several experts who could assist him in the task of inspecting and supervising the activities of the executive branch of the Philippine government in all parts of the islands.

If only Congress could realize the fact that the Governor General of the Philippines is the chief executive of as many people as live in the great State of New York, it is hard to believe that this assistance would have been withheld from him so long. As Governor General he is charged by the organic act of the Philippines with the duty of preserving peace and order and seeing that the laws are faithfully executed. He is also charged with the function of supervising and controlling all executive activities. He is responsible also for the care of the vast investments which the insular government has put into various enterprises. He is also charged with the protection of the rights of foreigners, resident in the Philippines, with whose governments the Government at Washington has treaty relations. Then, too, he is responsible for the protection of some 5,000 American citizens who live and work in the Philippines.

"Oh, but," you say, "he has a cabinet." And so he has—the heads of the executive departments. These are Filipinos. But they are taking lessons in popular government, and the situation is not the same as that in which our President finds himself. If they were entirely competent to be heads of departments with no check-up and no assistants, their peoples would be competent to elect their own Governor General. The fact that that power has not yet been given them is no reflection on the peoples of the Philippines. They have made great progress under American leadership. But they are not yet ready to dispense with American supervision and assistance.

Ninety-eight and one-half per cent of all the public offices in the Islands to-day are filled by Filipinos and only 1.5 per cent are filled by Americans. The oligarchy of politicians that rules the legislature is using every possible means to reduce that 1.5 per cent to zero. The record is there to show the various resorts that are made to eliminate that small fraction of Americans from any participation in the Philippine government.

But I would be entirely opposed to having this committee even unanimously vote to allow the Governor General the civilian experts that he requires and has asked for, if I thought this committee voted for that under the false pretense that there is the slightest objection those faithful and gallant officers to the number of four or five who have been loaned by the War Department to the Governor General. The only opposition to those officers comes from a small group of politicians in Manila, and a somewhat larger group of politicians and promoters in this country, who appear lately to have united on a program the general purpose of which is to abolish

the War Department's supervision over the Philippines. This coalition of special interests would set up a new government bureau which would be manned by gentlemen, I have no doubt, who would be rather more amenable to some of the designs of the coalition than the War Department has been in the past, or than the War Department would ever be in the future, so long as it has at its head of the Bureau of Insular Affairs such a faithful public servant as General McIntyre or any other officer of the Regular Army.

I am absolutely opposed to seeing any bill go through under the false pretense, set forth in the Thompson memorandum to Congress, that there is any general opposition among the peoples of the Philippines to the presence of a few devoted Army officers doing civil duty over there, all of whom have seen long service in the Philippines, and each one of whom has more devoted friends among the Filipinos and Moros than this entire committee. The idea that any reflection should be cast upon their service, the idea that the public should be deceived into believing that there is any such hostility, the idea that this should be done behind their backs 10,000 miles away by any American for any purpose is to me most repugnant.

I would rather give up for this or the next session any chance of seeing a meritorious piece of Philippine legislation passed than to see it done under false pretenses that might mislead Congress at the next session and public opinion and many newspapers into the belief that there is an opposition over there that would warrant the transfer of the Philippines, with their 63,000,000 acres of public lands, some of the richest under the flag, to the tender mercies of a newly created separate bureau, or possibly to make the Philippines an annex of the Interior Department. I think a reading of the record dealing with the disposition of the naval lands turned over to the Interior Department some years ago will convince you that we are not quite ready now or in the future to turn the public lands of the Philippines over to a separate bureau, or to a department less well fitted than is the War Department to protect them.

As I speak I am reminded that it is possible for this Government to send experts to the League of Nations from the departments at Washington every time they have a conference. We are represented there apparently every time they have a conference, by experts from Washington. We are sending experts to various countries; and it does seem to me that a little more support of the President by the Members of his own Cabinet, when the Governor General has requested and the President has approved the request to have assistants from some of the departments at Washington—it seems to me that a little more cooperation on the part of the heads of the executive departments here would be most helpful.

But rather than see the provision for those experts made as the new Kiess bill provides, I would rather see the Governor General wait "till the cows come home" to get them, because I don't think it fair to either House of Congress to plunge this appropriation into the maelstrom of general appropriations with the effect of making it subject first to the censorship of General Lord, the Director of the Budget, and then to subject it annually to the revision of the Appropriations Committees of Congress. But I can see easily where that might play very quickly into the hands of that ruthless oligarchy



at Manila and a group of designing gentlemen over here who have time to spend in Washington lobbying for their pet projects.

I am also opposed to that method of appropriation because there is no assurance that a single desire of the Governor General would ever be approved. Do you realize, gentlemen, what you do if you pass this bill in its present form? Do you realize that you would take away from the Governor General the power that he has now to recommend the expenditure? You would reflect further most seriously on the President, because if you passed the bill in its present form after you could not get the other bill through, it would advertise to the world the fact that the Congress believes that the Governor General is not fit to exercise the power of veto, and that the Congress also believes that the Philippine Legislature is better fitted to exercise the power of veto than is the President, because under the original Kiess bill the initiative in regard to this appropriation rested in the Governor General and the veto power was to be exercised by the President of the United States. Now, with all due respect to the Philippine Legislature, I am not ready to say that the man who represents in their corporate capacity all the people of the United States, could not be trusted to exercise this veto power wisely.

The last phase of the bill has not been recommended by the Governor General; in fact, no part of this bill has been recommended by the Governor General. There is not a scrap of paper that has been submitted that I have been able to find that would show that the Governor General has himself approved the modifications made in this bill. It is true that this memorandum of Mr. Thompson recommends it; but I happened to be in the Philippines until the 23d of October. I am inclined to the belief that the volunteer agent of the President must have also been the volunteer spokesman for the Senate and House of Representatives. Possibly he volunteered the information that it was hopeless to get the two Kiess bills through as originally drawn. He may have asked somebody to prepare a memorandum in support of the bill that would meet his objections because I call your attention to the fact that in these modifications of the Kiess bill you are not carrying out the recommendations of the President, as set forth in his message; you are not carrying out the recommendations of the Governor General; but you are meeting on page 6 of the memorandum of Mr. Thompson the objections there registered to the original Kiess bills, where he says: "The Christian Filipinos are unanimously opposed to the measures now pending before Congress."

I would be the last to detract from the statements made by Mr. Thompson, but I must offer this suggestion, that during the less than four months he was there he could not have consulted all the more than 11,000,000 Christian Filipinos. Yet he says that the Christian Filipinos are "unanimously" opposed to the measures now pending before Congress, known as the Kiess bills, Nos. 1 and 2.

Then he says, in contradiction of the President's several times repeated recommendation to Congress:

I question the wisdom of giving greater power to the insular auditor.

He is in conflict, you see, with the President, in whose behalf he volunteered to make the investigation.

Then he says:

Kiess bill No. 2, provides that the revenue derived from the tax on Philippine tobaccos sold in the United States shall be transferred to the general funds of the Philippine government and expended for certain general purposes at the discretion of the Governor General.

Then he says:

It is not advisable, however, to place this sum in the hands of the Governor General to be expended at his discretion.

Paraphrasing the objections made by the Manila oligarchy to the same bill some time ago—that is all Mr. Thompson is doing in this paragraph.

Now, I don't wish to be understood as in the slightest degree criticising the President's volunteer agent. I am only here to say most humbly as a private citizen who has made a study of Philippine conditions, that I am emphatically in opposition to the modifications in that bill, which I believe have been made, certainly so far as your honorable chairman is concerned, in entire good faith. I am here, however, for his enlightenment, if I may suggest. I firmly believe that however benevolent the purpose of these modifications, the sum total of their effect is to torpedo the program of the Philippine legislation recommended in the annual address of the President, and to meet the objections registered against that program, registered against the recommendations and policy and administration of the Governor General of the Philippines by the volunteer agent who has recently returned—Mr. Thompson, of Ohio.

Mr. WILLIAMS. May I ask a question?

The CHAIRMAN. Yes.

Mr. WILLIAMS. Speaking of the need of the Governor General for assistants: This bill provides that this money would be appropriated to pay these assistants. Do you believe from your knowledge of the islands and your visit over there that it would be for the best interests of the islands and the best results for this country that these assistants should be furnished, even though this Government paid them?

Mr. J. T. WILLIAMS, Jr. Oh, I think the Governor General very much needs this assistance. There is no question about that. I can illustrate that by telling you an experience of a most efficient and devoted doctor, an officer of the Army Medical Corps. He has a great deal of work in Manila, but he is constantly going around trying to check up and see whether the Governor General's orders and the Philippine laws are obeyed in regard to sanitation and public health.

In all the wonderful health measures and public sanitation that the American Government has put into effect, experience has shown that only by constant supervision is it possible to keep those laws in effect.

And so again with leprosy. Take the case that another officer, Gen. Halstead Dorey, found in one of this recent inspection trips. He found in one of the Provinces, down in the cellar of the jail alone and forgotten for weeks, a group of lepers under the most deplorable conditions. They had received no medical care whatsoever. They ought to have been in the hospital.

Mr. WILLIAMS. Then the Governor General should be authorized the assistants, even if we have to appropriate money out of the Treasury to pay them?

Mr. J. T. WILLIAMS, Jr. Absolutely.

Mr. WILLIAMS. Another question. This is foreign to this bill. A bill was introduced before this committee to give the Porto Ricans power to elect their governor after a certain time.

Mr. J. T. WILLIAMS, Jr. Yes, sir.

Mr. WILLIAMS. In discussing it with members, I have had some of them suggest to me that perhaps the Philippine people would get along better if they were permitted to elect their own governor. From what you have said I gather that you think it would be unwise to permit them to do that?

Mr. J. T. WILLIAMS, Jr. Not only unwise, my dear sir, but most disastrous.

Mr. WILLIAMS. That is all.

Mr. UNDERHILL. Just one question, Mr. Williams, with respect to the alleged military rule in the Philippines: Is there any evidence in the uniform or bearing or anything else in these assistants drawn from the Army for the Governor General, in their daily life, to emphasize or even suggest militarism?

Mr. J. T. WILLIAMS, Jr. My dear sir, I am sure from my investigation that there is a more "military" display apparent around the State House in Boston or the White House in Washington than there is at Mala cañan where the Governor General lives.

Mr. SABATH. These officers are in civilian clothes?

Mr. J. T. WILLIAMS, Jr. Yes; but they wear their uniforms on proper occasions. They are proud of the uniform. They perform their civil duties however in civilian clothes.

Just run over the list of them. It may furnish a clue. None of them has ever been identified in politics. One of them, Gen. Halstead Dorey almost lost his life on the other side, in the great war. He had a gallant record in the Philippines and in France, and numbers his friends by the thousands throughout the islands—Moros, Filipinos, and Americans. Another one of them is a most efficient surgeon of the Medical Corps of the Army, Major Hitchens. He stands very high in his profession. You couldn't get such a surgeon for three times the sum that you are paying him. Col. George T. Langhorne, who has friends all over the islands, also a veteran with a splendid record—a Virginian by the way—is rendering devoted service.

I wish Judge Sabath could have seen—because you have had experience in municipal work, Judge, I believe—Lieut. Harold A. Meyer, to whom has been intrusted among other duties, the supervision of what is known as "Welfare Village," near Manila. There they take the orphan children, not only of officials of the government, but they take children of those parents one or both of whom have leprosy and educate them and give them a home. And then in another part of the same village, they have the children of those whose parents have been delinquent, and the government more or less stands in the relation of parent to those children. Then in still another part of the village, so that there is no mingling, they have the young boys or girls that have made a false step. Rather than put them in some prison, they are put there in the effort to teach them and help them along and give them another chance. When things there under the local administration seemed to be going rather badly, this officer was detailed to lend a helping hand in straightening

things out. There is not sitting around this table and there is not in this Capitol an American who would not be proud if, in the line of duty with the colors, he could have contributed so much both to the welfare of the inhabitants of the Philippines and to the honor and glory of the flag, as that little band of loyal devoted Army officers loaned to the Governor General, are contributing to-day.

MR. SABATH. Now, how long has Meyer been engaged in this work?

MR. J. T. WILLIAMS, Jr. He has been there several years.

MR. SABATH. I have attended here in the last few months a meeting of the so-called guardian movement. In that meeting statements have been made by people, who, I believe, are reputable—they are officers of the Army, gentlemen of high standing—that there are thousands upon thousands of these unfortunate children left over from the war and since the war, of American men, that are not being taken care of and that they live a life that is a shame to the Nation. They are trying to create or collect a fund of one or two million dollars to establish a separate organization to take care of all these unfortunate children. I was so much impressed that I have contributed my little share to the work of the fund.

MR. J. T. WILLIAMS, Jr. Your money will be well spent, sir; I am sure. You refer to the American guardian fund.

MR. SABATH. Why is it necessary to raise that money from private sources?

MR. J. T. WILLIAMS, Jr. Because the dignity and sense of justice of the American people prevent them from asking the Philippine Legislature to appropriate for children of the sort which have rightly appealed to your generosity. The wonderful school to which I referred is an entirely different institution. It is a Philippine school for Filipinos. It is maintained by the insular government.

MR. SABATH. These are children, however, of Philippine women, are they not?

MR. J. T. WILLIAMS, Jr. They are, sir. It seems a rather better way—to save ourselves the necessity of asking that appropriation and advertising the problem that is sad for us all—it seems the rather more dignified thing that other Americans should follow the lead of those yourself and contribute to the American guardian fund. That is an American tragedy and an American responsibility.

MR. SABATH. Under the conditions that exist I think the Government should provide for and take care of those children.

MR. J. T. WILLIAMS, Jr. You mean the Government at Washington?

MR. SABATH. Yes. When I heard of the conditions that day I was so amazed that if I could have had the power I would have immediately moved to provide all the necessary funds to take care of all these children, because it is setting a bad example to the Filipinos.

MR. J. T. WILLIAMS, Jr. Yes. It is heartening to see Welfare Village and see the wonderful work being done there by the commissioner of public welfare, Mr. Fabella, under American supervision and with the cooperation of Filipinos of the best sort.

THE CHAIRMAN. Mr. Williams, you were kind enough to commend what is known popularly as the Kiess bills No. 1 and No. 2.

MR. J. T. WILLIAMS, Jr. Yes, sir.

THE CHAIRMAN. You are perhaps aware of the fact that No. 1 was considered by this committee and reported favorably and is now on the House Calendar?

Mr. J. T. WILLIAMS, Jr. Yes, sir.

The CHAIRMAN. The other bill (No. 2), with respect to revenues, was referred in the other session to the Ways and Means Committee; and no action was taken. When Congress adjourned in July we were very close to being reached on what is known as a calendar Wednesday. There was only one committee ahead of us, which meant that on the third Wednesday after Congress reconvened in December we had every reason to believe that our committee would have the day, or, rather, have two days; and I was assured by the Speaker and the floor leader that this would be done.

Congress reconvened in December. Instead of following that program, every calendar Wednesday was set aside until a week ago; so instead of having our day and getting these bills before Congress, it was put off week after week.

There was considerable opposition to the bill reported, and the new bill we are considering now is a compromise bill. The original bills probably represented more nearly the opinion and views of the chairman, but I hoped that by making some concessions and by putting all this legislation in one bill we might get some action at this Congress.

I personally had hoped that the question of party should not be raised. I hope that before the next Congress convenes, some members of this committee will have the opportunity of visiting the Philippines, and that we can then unite on a bill which should be introduced at the opening of next Congress. I hope we can pass some measure which will uphold the dignity of the United States officials over there and be of benefit to the Philippines as a whole.

Those familiar with legislative practice realize that there is no possibility of passing any of this legislation at this session. Yesterday I learned that the Calendar Wednesday to-morrow was set aside on account of farm legislation. There will be one other Wednesday, and that day belongs to the Territories. They tell me that they have only one bill; and if that is true, then we will have a chance to call up and, I hope, pass the two bills affecting the Virgin Islands which were approved to-day by the committee, and also the Philippine bill with respect to taxes which General McIntyre explained.

I am making this rather lengthy statement for the benefit of the committee, Mr. Williams.

I take it from what you say that you think the bill is too weak, and favor a stronger measure.

Mr. J. T. WILLIAMS, Jr. I recognize absolutely that all sound legislation under a republic is the result of compromise; but I do not believe that you ever got a wise compromise that was not based upon straightforward, sincere recommendations so that there is a clear line drawn where the opposition can speak its mind and the champions of the legislation make their argument. It seems to me, that the modifications of this bill have been made at the expense of the fundamental purpose of the bill, and would be disastrous if carried into effect.

But I do think—I am delighted to find that without any regard to what I have said—there seems to be an opinion in the committee that it would be unfortunate at this time of all others, when there comes a clear and friendly voice from Manila—the voice of General Aguinaldo—speaking in support of the Governor General and of cooperation with his program, to seem to strike at that program at this very moment by any ill-advised legislation at this session.

Mr. HUDSON. Do you want to carry with you the impression that this committee is not in hearty sympathy and support of General Wood?

Mr. J. T. WILLIAMS, Jr. I am sure that they are.

Mr. HUDSON. I don't know whether you think that, but some of your remarks—

Mr. J. T. WILLIAMS, Jr. I don't remember making any such remark as that.

Mr. HUDSON. It seemed to me that you made the remark that the purport of this bill would be to weaken the administration of the Governor General.

Mr. J. T. WILLIAMS, Jr. I was most careful, Mr. Chairman, not to attribute to anyone here such a purpose. May I make myself clear on that point?

The CHAIRMAN. Yes.

Mr. J. T. WILLIAMS, Jr. I was most careful in what I said not to attribute to any member of the committee any such motive; but I did say that I thought the effect of the changes in the bill was to meet the objections in Mr. Thompson's report and that I feared that the committee would be put in a false light by so doing. Mr. Thompson's purpose, I believe, differs from yours.

Mr. HUDSON. I gathered from Mr. Williams's discussion this morning that he is in favor of these experts that are Governor Wood's right hand, these four or five Army officers detailed for that purpose. Do you approve of those men?

Mr. J. T. WILLIAMS, Jr. Certainly, sir, until you can get experts authorized and provided for by law to take the place of those men and end the sacrifices that they are now making, because they are rendering this service at a professional sacrifice.

Mr. HUDSON. When we were working on this bill for experts in these things, I supposed that we were working with the mind that General McIntyre and the whole War Department understood that we were to furnish them so as to relieve the military men from doing civilian work, which was not in my mind that we were doing in opposition to the War Department.

Mr. KNUTSON. I didn't understand Mr. Williams to say that. You recommend replacement of these Army men by competent civilians?

Mr. J. T. WILLIAMS, Jr. I think it is only fair to the Army men. Those men don't report to General Wood. They are not carried on the pay rolls of General Wood's staff. They are ordered over there, as I understand, by the War Department and report to General Sladen, the commanding general of the Philippine Department. They are loaned by him to the Governor General as liaison officers.

Mr. HUDSON. It is only a War Department arrangement?

Mr. J. T. WILLIAMS, Jr. Yes.

Mr. HUDSON. That is all, I think.

Mr. J. T. WILLIAMS, Jr. The agitation that we hear about there being a revolt in the Philippines against the uniform of the United States, and that to placate that objection, our Army officers should be relieved—I don't want to see the committee report a bill under such pretenses as that, because I believe it would be used as the excuse next year for passing under the same misunderstanding some very unwise legislation.

Mr. KNUTSON. Have you ever visited any of our other possessions?

Mr. J. T. WILLIAMS, Jr. Not yet. I wish I had. I hope to some time.

Mr. KNUTSON. You are unalterably opposed to creating a colonial bureau to administer our insular affairs?

Mr. J. T. WILLIAMS, Jr. At the present time—I can not say about the other possessions—but at the present time I am inclined to think that we are on the threshold of great development in the Philippines; I believe that the protection of the public lands of the Philippines can be better safeguarded under the present Bureau of Insular Affairs of the War Department than under a new bureau created by the bill that was introduced the other day in the Senate. At the very time the statement in support of that bill was being made, that the purpose of that bill was "to supplant military by civil rule in the Philippines," the honorable the Secretary of War was before this committee saying that no such statement could be made except in ignorance or by a man deliberately for the purpose of advancing his own program. Mr. Taft was the first civil governor of the Philippines. There has been "civil rule" there ever since.

Mr. KNUTSON. You have no idea but that if a colonial bureau were established General McIntyre would be placed at the head of it?

Mr. J. T. WILLIAMS, Jr. I don't believe that that is the purpose of the gentlemen who are advocating the Senate bill.

Mr. KNUTSON. We have not had this other bill before us.

Mr. J. T. WILLIAMS, Jr. And furthermore, gentlemen, if I may make a further answer to that question, I seriously doubt whether the establishment of a colonial bureau now would be playing altogether fair with the peoples of the Philippines. They might interpret that as closing the door on their aspiration for a larger measure of autonomy sometime. One of the principal reasons why General Aguinaldo is standing so firmly behind Governor General Wood is the fact that the Governor General has never closed the door upon the aspiration for a larger measure of autonomy than these people now enjoy. To take them out from under the War Department and put them under a newly created bureau to be administered after the British type of colonial department would, I think, be a great mistake.

Mr. KNUTSON. Hasn't the British system worked well in England?

Mr. J. T. WILLIAMS, Jr. It has worked out very badly in some respects. Some colonies are under the Foreign Relations Department and others under the Colonial Department.

Mr. KNUTSON. The point I was getting at was that Porto Rico and the Philippine Islands are under the War Department, whereas the Virgin Islands and Guam and Samoa are under the Navy Department.

Mr. J. T. WILLIAMS, Jr. Yes; and Alaska and Hawaii are under the Interior Department.

Mr. KNUTSON. Of course, they are Territories. But by establishing a bureau of colonial affairs, calling it a bureau of insular affairs, and putting all of these insular possessions under the complete control of that bureau, would at least give them a uniform government. Now, isn't that true?

Mr. J. T. WILLIAMS, Jr. I served President Taft for a time as United States Civil Service Commissioner. I know the difficulty of getting a civil service newly established in a new bureau. Furthermore, I am thoroughly committed against the establishment of any more bureaus in Washington. I think that we ought to adopt a program of consolidation.

Mr. KNUTSON. We won't get into any quarrel with you on that, but whether the Bureau of Insular Affairs—

Mr. J. T. WILLIAMS, Jr. Every step of progress, Mr. Congressman, that has been made in the Philippines has been made by the War Department. Every step in 25 years that has been made has been made under the War Department. It was a Secretary of War who wrote the organic law originally for those islands. A Regular Army officer organized a government there, as some people do not know. Mr. Taft, later Secretary of War, was the first civil governor. What objection can there be to this department under whose supervision we have cleaned up Cuba, built up a civil government in Porto Rico, and brought about 25 years of remarkable progress in the Philippines? All progress in the Philippines for a quarter of a century has been made under the War Department.

Mr. UNDERHILL. This proposed insular bureau, as I understand—and I am asking for information; if I am not right, tell me so—exempts from its provisions Alaska, Hawaii, and Porto Rico, doesn't it?

Mr. J. T. WILLIAMS, Jr. No, sir; Porto Rico is included.

Mr. UNDERHILL. Then it includes Porto Rico, the Virgin Islands, Guam, the Philippines, and Samoa, and how many more I don't know.

Mr. J. T. WILLIAMS, Jr. I don't know about the other insular possessions. I only know about the Philippines.

Mr. UNDERHILL. As a matter of fact, outside of Porto Rico, they are running pretty smoothly under the present administration, aren't they?

Mr. J. T. WILLIAMS, Jr. They have the same system in Porto Rico as in the Philippines and the government is also running smoothly so far as the American part of it is concerned.

Mr. UNDERHILL. It really doesn't amount to anything. Samoa and Guam and the Virgin Islands all put together are hardly a handful. Our real purpose of seeking to establish this new bureau is for the government of the Philippines.

Mr. J. T. WILLIAMS, Jr. Gentlemen, I wish some one would ask one question about one feature of the bill. I heartily approve these increases in salaries. The statement was made here the other day by a gentleman of the committee that Manila was not expensive. I was in and out of Manila a good deal. It was fairly expensive for me, perhaps because of the very wise rule my chief made that wherever I



went in the Philippines, his organization would pay the expenses. My expense accounts in Manila were a little bit higher than my expense accounts would have been in Washington.

Mr. KNUTSON. You did more entertaining, naturally.

Mr. J. T. WILLIAMS, Jr. I didn't do half as much entertaining in Manila as those faithful public servants, the Governor General, the members of his staff and their families, and the Army and Navy officers. They are entertaining the year around, Congressmen, visitors from the States, and many others who go to Manila to see our great experiment there.

Now, I have supported enthusiastically bills that have been introduced and passed here increasing the salaries of Senators and Representatives in Congress; and for your information let me say that as an editor I have never had but one letter in opposition to that. That came, singularly enough, from an officeholder on Beacon Hill, Boston, who had been trying to get his own salary raised and it had not been raised. The Philippine Legislature have raised their own salaries.

These salaries were originally recommended by a Democratic administration. They have been recommended for years and years by General McIntyre. The Governor General has not asked any increase. None of these men have asked it, either. They are too proud. They just go ahead making their sacrifice.

But, gentlemen, have you ever stopped to think of what a calamity it would be for the islands if we should lose the present Governor General by circumstances beyond our control? Have you ever stopped to think how limited perhaps the President might be in the choice of a successor, and how overwhelmed he might be by volunteers with money enough to snap their fingers at the salary of the Governor General in order to have the opportunity to exercise that power?

Now, I believe that raising these salaries is most urgent and most meritorious. I think the proposed scale is fair. They would have been raised under President Wilson if Congress had consented. I never noticed that there was any particular commotion in Massachusetts because you raised your salaries or because you raised the salaries of the Federal judges. It didn't disturb the scheme of things there in the State salaries. It would be a thoughtful, sympathetic thing to do, because there would be four Filipinos on the Supreme Court of the Philippines who would share in the salary increase, including the chief justice. And then there would be the Governor General and the Vice Governor General, the insular auditor and his assistants, and five American justices of the supreme court. It would be a thoughtful, sympathetic thing for this Congress to raise their salaries. It would give the lie to the report circulated over there by some of the politicians in Manila that Congress neglects the Philippines or is ignorant of the conditions there or is indifferent.

The CHAIRMAN. Mr. Williams, in this compromise bill we all felt before that we had—

Mr. UNDERHILL. Mr. Chairman, will you explain for my elucidation what you mean by "compromise bill"?

The CHAIRMAN. I will.

Mr. KNUTSON. A revised bill.

The CHAIRMAN. Yes, a revised bill.

There were new constructive criticisms made against the bill on the calendar, and also the revenue features in the bill before the Ways and Means Committee. Owing to the fact that our committee could not be reached for some time it was my judgment, indorsed by the War Department, that I introduce a new bill which would incorporate the salary feature and also the revenue feature and clarify the duties of the auditor. That is the reason I introduced this bill. If the committee in its wisdom thought this was a better bill, we could report it. Even if we have not accomplished anything, we have had some interesting hearings on this bill and have gotten a lot of information. Both sides have been heard, more particularly the opposition side than those in favor of it.

It would be feasible, even at this late day, if this committee would unanimously report section of this bill relating to the salaries. We could pass it with no opposition, if it was unanimously reported. It has been suggested by Mr. Williams that the salary matter is a very important one; and General McIntyre will confirm this, because I know that he has been for years laboring to get these salaries advanced; and that would be a very fine thing for us to do.

MR. WILLIAMS. Wasn't the first request for raising the salaries made by the War Department or the Secretary?

THE CHAIRMAN. Yes. They recommended it. Secretary Baker recommended it.

MR. BRUMM. Provision is made in this bill to increase the salaries. What would be the source of the money to defray those?

THE CHAIRMAN. It would be up to the Philippine Legislature to appropriate the money.

MR. J. T. WILLIAMS, JR. They have to under the law.

THE CHAIRMAN. We are not taking anything away from them. That would come out of the fund of five or six hundred thousand dollars.

MR. HUDSON. Doesn't this provide for any new officers?

THE CHAIRMAN. An additional assistant auditor.

We appreciate your coming here, Mr. Williams.

MR. KNUTSON. I would like to ask Mr. Williams one more question. The situation over in the Philippines needs clarifying, if I may judge from the remarks that you made.

MR. J. T. WILLIAMS, JR. You will find two very interesting documents, the Governor General's report this year, and General McIntyre's report.

MR. KNUTSON. I am asking you. You have been over there and made a study of things from an unbiased standpoint, I take it?

MR. J. T. WILLIAMS, JR. Yes.

MR. KNUTSON. Don't you think it would be wise for this Government to define definitely its position with reference to the Philippine Islands and let them know that this country has no immediate intention of giving them independence?

MR. J. T. WILLIAMS, JR. I am utterly opposed to that, sir.

MR. KNUTSON. You don't believe in that?

MR. J. T. WILLIAMS, JR. Absolutely not. I am opposed to any further statement of policy toward the Philippines at this time, because it seems to me that the President has covered that ground

most thoroughly in his letter to the speaker of the Philippine Legislature.

I should say in that connection that you will find that soon after Mr. Coolidge entered the White House, the Fairfield bill went out of the window and in its place came the letter to Speaker Roxas, which is perhaps the ablest state paper on the Philippines for many years, and certainly since the Jones Act.

Now, there is a strong movement in certain quarters to redefine our policy toward the Philippines. Gentlemen, we have got plenty of policy toward the Philippines. What we need is some deeds in support of that policy as outlined in the letter of President Coolidge to Speaker Roxas in 1924. Personally I would be opposed to any further commitment at this time. I don't admit the right of this Congress to bind the American people one minute beyond the two years for which you are elected.

MR. HUDSON. I would like to ask Mr. Williams this: He spoke of "a silver lining to the clouds." I judge that your reference was that you think there is to be a new political alignment in the Philippines overthrowing perhaps the present political alignment?

MR. J. T. WILLIAMS, JR. Provided the Government in Washington continues to support the Governor General's program. His conception of his office is that he should take no part in the politics of the Islands—that whether Mr. This or Mr. That is in power is none of his business as the American representative. Provided we support his program by which he refuses to play one politician against the other, and we support enforcement of the Jones law, I believe, that there will come very soon a time in the Philippines where a Filipino can come out and say openly, "Yes, I am for cooperation with the government that we now have" and not be called a traitor; I believe also that the time will come when there will be formed in these islands parties which will divide along questions that parties would naturally divide along, namely, whether this or that ought to be done with regard to the development of the Philippines—in other words, parties that will concern themselves with subjects which under this law they have a right to concern themselves with. Within a short while I think you are going to find that the harvest of the last five years will begin to be reaped.

MR. SABATH. Isn't it a fact that General Wood does take an interest in the political situation there inasmuch as he is cooperating and aiding General Aguinaldo?

MR. J. T. WILLIAMS, JR. I am very glad that the judge has asked that question, because—

MR. SABATH. Those are the reports from time to time.

MR. J. T. WILLIAMS, JR. The conception of the Governor General is that he has no more to do with the politics of the Philippines and their parties than would the ambassador at the Court of St. James concern himself with the parties there. He is the representative of the flag, the sovereignty of the United States, and not interested in parties. One of the reasons why General Aguinaldo has supported the Governor General is because of the fact that General Wood has been able to say, "I am friendly to General Aguinaldo because he is a patriot and a statesman. He will accept no appointment or election to office." His office as head of the Veteranos Association has the

same relationship to the government there as the commander of the American Legion would over here.

Mr. DALLINGER. Where does the money come from that pays for the propaganda that is going on in this country all the time for Philippine independence?

Mr. J. T. WILLIAMS, Jr. I am sure I do not know, sir. They have their bureau here.

You understand, one of the reasons why the auditor is unpopular with the politicians is because—and by the way, he is a civilian, he has never worn a uniform—but he made a ruling that the independence fund of 1,000,000 pesos a year, a continuing appropriation that was to pay the annual trips to the United States of this delegation, was illegal. His ruling was sustained.

Then he made another most unpopular ruling. He ruled that if you were recorded present at a recess committee and were absent, if you were a senator or representative in the legislature and you signed a voucher and collected the per diem for attendance and you were away down in the southern part of the islands, that that did not go. Now, instead of sending, those members of the legislature to jail, the auditor took a rather kindly view of it, a view that perhaps it was due to the fact that the lessons of popular government had not been learned. Instead of sending them to jail, he made them refund the money.

Then he made another ruling that made him very unpopular with the legislature. He found that members of the legislature were transporting at public expense from public funds household goods, families, automobiles, from all parts of the islands to attend the legislature and then return. He said that that did not go. So he is unpopular. There is no denying that. But he is not unpopular with the Philippine people.

Mr. BACON. Mr. Chairman, I suggest that Mr. Williams be given the privilege of extending his remarks. He has some interesting exhibits and things that might well go in the record. He has one or two things, that I think, in courtesy to him he should be allowed to put in.

The CHAIRMAN. Without objection, that will be done.

Mr. UNDERHILL. We have a few minutes left. Mr. Williams has not touched on the Moro situation in Mindanao at all. I wish he would devote a few minutes to that.

Mr. RAGON. There was some movement on in this country to separate Mindanao from the rest of the islands over there. Are you in favor of doing that?

Mr. J. T. WILLIAMS, Jr. With the highest respect for any member of the committee who may take the opposite view, I know there is a lot of unrest down in Mindanao, but I am opposed to separating it. I think that the Governor General's milder course is perhaps the wisest one. I think he ought to have the power in Mindanao to appoint the governor of the Province without asking the consent of the Philippine Senate. I think he ought to have the power to appoint the judges in Mindanao without having to go to the Philippine Senate to get them confirmed. But even though you would not be disposed to give him the second power, I do think that a great deal could be done to appease the unrest there and allay the resentment against what

we used to call down South a carpetbag government, just by giving him power to appoint those officials. He should at least have the power of appointing the governor of a non-Christian Province.

Mr. SABATH. Then, you would give him a power that is greater than the power of the President? Presidential appointees must be confirmed by the Senate.

Mr. J. T. WILLIAMS, Jr. He has a number of powers greater than the President, because the matter is so wholly different. For example, the President does not appoint the district or prosecuting attorneys of the States. They are elected. We have jury trial here. They have none over there. It is an entirely different situation. If you will look up Secretary Baker's letter to Governor Wood's predecessor, you will find that nearly every obstacle that General Wood's administration has encountered was forecast in that letter.

Now, under our system of government the President is the titular head of a party; and under that theory his party is supposed to more or less assume the responsibility of getting the Cabinet and others confirmed. As a general rule they give the President the benefit of the doubt and they confirm his Cabinet. That is done by the majority. The minority offers no opposition.

Now, we have placed a chief executive over there over as many people as live in the State of New York. He is not the head of any party. As he interprets his function under the law, he must be above and beyond both parties. He has nobody in the Philippine Legislature to plead the cause of his appointees. It is nobody's responsibility; it is everybody's responsibility. My belief is this: That ever since 1916 that power of confirmation has been grossly abused, almost to the point of attempting to set up a government by political blackmail in some respects; and to oppose the governor by—

Mr. RAGON. Is it not true that the non-Christian tribes have no elected representatives in the Philippine Senate?

Mr. J. T. WILLIAMS, Jr. None at all. You would have been at least amused or saddened to have seen this. When they got the new legislative building erected, a beautiful building, what had they done? In the least ventilated and the least comfortable and the most remote and cramped portions of this beautiful building, they had stuck away the representatives of the non-Christian Provinces, who had been appointed by the Governor General. Don't hold it against those people too much; they have only been playing a very short time at this game of popular government. They have made great progress. We ought not to expect too much of them; but the one thing, the one great lesson to teach them is that when a man has power there goes with it responsibility, especially the responsibility to give a square deal to the minority. That is the big lesson that we are trying to teach them in the Philippines.

The CHAIRMAN. Mr. Williams, I judge from your statement that you think that whatever money is to be used in the Philippines for the employment of civilian assistants to the Governor General should be given as a fund to the Governor General and not be appropriated by Congress upon his recommendation?

Mr. J. T. WILLIAMS, Jr. To be placed at the disposal of the executive branch of the government, to be spent upon recommendation of the

Governor General, approved by the President of the United States or his agent, the Secretary of War.

The CHAIRMAN. That is, as a trust fund?

Mr. J. T. WILLIAMS, Jr. A trust fund for the Philippines.

The CHAIRMAN. You realize that Congress is very generous with its power over the expenditure of its money?

Mr. J. T. WILLIAMS, Jr. Rightly.

The CHAIRMAN. But there might be very serious opposition to that feature.

Mr. J. T. WILLIAMS, Jr. I may be wrong, but I believe that the proposition is so meritorious that if you could get it fairly argued before the House, you would convince the House. I think it ought to go through this session.

Mr. THURSTON. It has been stated that one of the best evidences that the Philippine people should govern themselves is the manner in which they handle or conduct their finances. Could you for the benefit of the committee enlarge your observations over there on that subject?

Mr. J. T. WILLIAMS, Jr. I made a careful study of all the decisions of the auditor and his very excellent and statesmanlike policy in support of the Governor General; and I should say, that while they are making progress, they haven't completed the course in finance yet.

Mr. THURSTON. Now, in the commercial and industrial life of the islands—

Mr. J. T. WILLIAMS, Jr. At least 75 per cent of it is done by Chinese, the merchandising.

Mr. THURSTON. To what extent does the native population engage in business and industry?

Mr. J. T. WILLIAMS, Jr. Seventy-five per cent of the merchandising of the islands is done by Chinese. The Filipinos have not been as successful in business as they are in medicine and law, but there are a few successful Filipino merchants.

Mr. THURSTON. They are more successful in the professions than in business?

Mr. J. T. WILLIAMS, Jr. Yes; rather more in the professions.

There is another measure that would increase the autonomy of the islands considerably, and that is the enfranchising of the women of the Philippines. They are the best part of the population.

Mr. THURSTON. That is true in the United States too, isn't it?

Mr. J. T. WILLIAMS, Jr. The Philippine women really take a much larger part in the business of the Philippines than they do over here. You see women in the Philippines plowing in the fields even on Sunday, when the men are elsewhere.

Mr. UNDERHILL. Where are the men?

Mr. J. T. WILLIAMS, Jr. You know, Sunday is a great day over there. They have all kinds of sports.

Mr. BACON. As a matter of fact, if we passed a bill, the Underhill bill, granting suffrage to the women over there, it would increase the autonomy of the Philippine people?

Mr. J. T. WILLIAMS, Jr. I am in favor of granting them suffrage.

Mr. DALLINGER. In other words, you think that the women are very much more qualified for suffrage than the men?

Mr. J. T. WILLIAMS, Jr. Yes; I think so over there

Mr. KNUTSON. I am not going to talk woman suffrage, but if we were to pass a law enfranchising the Philippine women, it would result in a complete realignment of the party affiliations.

Mr. J. T. WILLIAMS, Jr. I can not tell. I think it would contribute to the influence of the stable element in the islands. It would contribute to the influence of this particular group: The people who do the work in the islands, those hard-working people who are not engaged all the time in making speeches. That is what I mean.

Mr. UNDERHILL. Well, Mr. Williams, isn't it a fact that in practically all operations there, whether privately controlled or whether government activities, that when pay day comes around the wives most generally appear and the pay envelope is passed intact over to them?

Mr. J. T. WILLIAMS, Jr. I think, as Judge Sabbath remarked, they have become Americanized to that extent.

You asked me about the peoples of the Philippines. I want just to read this little quotation from a book by Judge D. R. Williams, whose title is "The United States and the Philippines":

A fact too often overlooked, particularly by the casual writer, is that Manila, with its foreign flavoring and its evidences of modern civilization, is not the Philippines, and that the cultured and well-to-do Filipinos there encountered, or with whom dealings are usually had elsewhere, are not the people whose rights and interests are primarily involved. The real Filipinos, the Malays who comprise over 90 per cent of the population, will be found living unobtrusively in the innumerable little nipa shacks which hedge the streets and highways, or in the mountains of Luzon, the wilds of Mindanao, and other sequestered places of the archipelago. The voice of this silent multitude—poor, ignorant, helpless, credulous, exploited and enslaved throughout all their history, subservient to those in authority or whom they regard as superiors, and whose welfare and security were an unconsidered item until American occupation—finds no expression in the native press or the political forum. They have been, and in a large measure still are, simply instruments in the hands of the educated and the wealthy few.

Now, gentlemen, it is for that 90 per cent that Governor General Wood and General Aguinaldo are pleading and striving to-day.

The CHAIRMAN. The meeting will stand adjourned to meet at the call of the chairman.

(Thereupon, at 12 o'clock noon, the committee adjourned to meet at the call of the Chair.)

#### EXTENSION OF REMARKS

I gladly avail myself of the courtesy of the committee to add to my remarks the following statement made to the people of the Philippines on September 9 last, on the day before he sailed from Manila for San Francisco, by Mr. Henry L. Stimson, of New York, who was President Taft's Secretary of War:

FORMER WAR SECRETARY IN FORMAL STATEMENT ASKS FILIPINO COOPERATION—SAYS CHARGES OF MILITARISM AGAINST GOVERNOR GENERAL ARE MERELY TO RAISE POLITICAL BUGABOO—VETERANS OF OLD DAYS APPRECIATE BENEFITS OF AMERICAN AID MORE THAN SOME OF YOUNGER GENERATION—KIESS BILL FAVORED

[By Henry L. Stimson, former Secretary of War]

I have been asked for my views upon political conditions in the islands as I have observed them during my six weeks' visit. I have hesitated to express

such views, for the subject is a large one and the observations of any one man during such a period are necessarily hasty and imperfect. But there are certain features of the situation which have made a strong impression on me, as a disinterested and wholly unofficial observer.

I sympathize thoroughly with the desires of the people of the Philippine Islands for self-government and am much gratified with the rapid steps that they have made during the past 25 years in obtaining it. But self-government and national independence are two quite different things, and the latter involves many considerations to which apparently little attention has been given. Many of my Filipino friends have expressed to me the view that if the United States should withdraw its Government from the islands it could yet be counted on to protect them in case thereafter they were threatened with danger from other sources or nations.

They could not make a greater error. So far as the Philippine question is concerned, the American people are divided into just two classes: First, those who are willing to take the time, the trouble, and thought necessary to work out to a satisfactory conclusion this long and difficult problem of the final relation of these islands to the United States; and secondly, those who, for one reason or another, are not willing to do so, and who therefore wish to get rid of the islands as soon as possible. I believe that the former are the true friends of the Filipinos and the latter false friends. Every time you agitate here for immediate independence you weaken the hands of your true friends and strengthen those of the others. If the United States were to take this demand at its face value and to withdraw now, it would mean that the control of the American Government had passed into the hands of the men who wanted to get rid of the anxiety and responsibility which goes with their protection, and care, and education. Once rid of that burden, no power on earth would bring the Americans back across the Pacific to take it up again under far more difficult conditions. Connections with America once ended would be ended forever.

Now I often wonder whether my Filipino friends really desire that to happen. They are the only Christian people in the Orient, surrounded by nations of an entirely different race, religion, and civilization. They are a small people living in underpopulated islands of wonderful potential wealth and natural resources. They are surrounded by much larger nations whose territory is overcrowded and who are necessarily hungry for the inheritance of the Filipinos. On the other hand the people of the United States have no desire to supplant them or to take away their land or even in any large numbers to migrate to these islands and live here. Their only interest in the Philippines (apart from their altruistic desire to see carried to a successful conclusion the great humanitarian experiment begun a quarter century ago) is to help the Filipinos develop their undeveloped resources so that the two peoples can hereafter engage in mutually profitable trade and commerce. That American interest may be selfish, but it is an interest which coincides with the true interest of the Filipino and is not antagonistic or harmful to them. On the contrary it is wholly beneficial to them. There is no country in the world with which the Filipino people can so safely maintain a connection as with the United States. It is inconceivable that a nation of the historic principles of the United States would exploit the Filipinos or permanently govern them in a manner contrary to their matured desires.

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#### TRIBUTE TO GENERAL WOOD

The American Government has given an earnest of this attitude when it sent over here the present Governor General, Leonard Wood. There is no one living in the world to-day, of any nationality, who has made such a distinguished record of patient, highminded, and successful service in guiding peoples along the difficult road to self-government as he has. The people of Cuba, where served first as Governor of Santiago and later as Governor General in Habana, still remember gratefully his labors; and the final solution of the relation of Cuba to the United States embodied in the so-called Platt amendment was largely the result of his work. That solution is justly regarded by experts throughout the world as a landmark, honorably and efficiently adjusting as it does the political relations of two peoples having the very peculiar mutual dependence of Cuba and the United States.

When the Government at Washington has made such a gesture of good will toward the people of these islands as was embodied in the appointment of Gover-



nor Wood, many Americans are interested to know whether that gesture has been properly appreciated and reciprocated over here. It is one of the things in which I myself have been most interested in coming here. What have I observed?

I have found a very deep and sincere appreciation of the Governor General on the part of General Aguinaldo and others of his veterans with whom I have talked. The organization of these veterans have shown him steadfast support. They were the sturdiest fighters against the Americans in 1899, but they evidently have a clearer sense of the benefits which have come to the islands under American supervision than some of the younger men.

I have also witnessed wherever I went in the southern islands an almost pathetic devotion and reliance upon the Governor General by the leading chiefs of the Moros. And throughout the rest of the islands, wherever I have been with him, there has been perfect respect, evident confidence, sharp attention to his many suggestions and corrections, and an entire absence of any evidence of criticism or hostility.

But in the group of leaders who assume to represent the political voice of the islands, I regret to say I have not always found an attitude towards Governor General Wood which would be thought adequate or even fair by public opinion in the United States. For example, I have just received a copy of the New York Times in which, on August 1, Senator Quezon made a statement criticising General Wood because he was a "military man" and was "surrounded by military advisers" and saying that "the Wood régime gives the people the impression that they actually have a military dictatorship."

What are the real facts? General Wood is certainly a soldier and a great one, but as I have just pointed out his chief international reputation was primarily based upon his career as an administrator. And so far as his "military advisers" are concerned, I should have thought the leaders of the Filipino Legislature would have been rather ashamed to bring up that subject. For the facts are these. The Governor General of the Philippine Islands, although the chief executive of a people as numerous as the population of New York State, scattered among 3,000 islands covering an ocean space nearly 1,000 miles long, and although vested in addition to the ordinary duties of a chief executive in one of the American States, with the additional duty of supervising the workings of government by a politically immature people new to the art, has been granted an absurdly inadequate personal force to assist him in performing these functions. The duty of keeping up and improving the standard of the administration of justice, sanitation, education, and other civil functions in all of the little out of the way villages, barrios, and provinces of this immense territory involve an enormous task and a vital one. I have just personally accompanied the Governor General on one of his inspection trips and have witnessed not only the tonic effect of his visits, but also the tendency to fall away from proper standards in the absence of such inspections.

To carry on this supervision, laid upon his shoulders by the organic law, the Governor General should have the services of several men of the highest type, some of them experts in sanitation and medicine, some in agriculture, some in general administration—men responsible solely to him and not to the executive departments or to the legislature, for they must be his eyes and ears, to watch how the departments and Provinces are functioning. As a matter of fact he has been given not a single one such man, and the gap has been filled temporarily, during his administration, by the loyalty of some of his former assistants in the United States Army, who have been willing to sacrifice their own careers in the Army to fill the need. It is a sorry reward to stigmatize such men as Frank R. McCoy, Halstead Dorey, George Langhorne, or Gordon Johnston, men holding positions at the very top of their profession which they are jeopardizing by this civilian service, as members of a "military dictatorship."

Not only that, but when, in default of appropriations for the purpose by the Philippine Legislature, the Congress of the United States proposed in one of the so-called Kiess bills; to furnish funds for the purpose out of the internal revenue collections in the United States, belonging to the United States Treasury and not to the Philippines at all, the Filipino leaders have opposed this bill and thus endeavored to block this vital and beneficent reform in the interest of their own progress. Until some adequate provision is made to give the Governor General through civilian channels the advice and assistance which is indispensable to the proper performance of his functions under the organic law, the less said about "military advisers" the better. As a matter of fact every resident of Manila knows that Governor Wood is the very personification of democratic simplicity;

that he is approachable to every one; that neither he nor his advisers ever appear in uniform for the performance of their business or make the slightest show of military formality. The whole attack is a skillful attempt to create a political bugaboo.

#### LEGISLATURE AND EXECUTIVE

Again, much has been said of the Governor General's alleged difficulties with the legislature and he has been criticised as if such difficulties arose from his fault. But when that is examined, what are the plain fundamental facts? Governor Wood was commissioned by the President of the United States to fill the post of Governor General of these islands as created by the Jones Act. In this act, Congress deliberately created a system of government for these islands, to be their organic law or constitution, and it was the duty of every officer of the Philippine government to maintain that law. Furthermore, the passage of that act had been received with universal manifestations of approval by the Filipino people and evidently fully coincided with their desires.

Yet, in spite of this, during the five-year interval between the passage of the organic act in 1916 and the inauguration of Governor Wood in 1921, there had been passed by the Philippine Legislature, with the acquiescence of Governor Wood's predecessor, a long series of insular statutes which in many respects curtailed the powers of the Governor General and turned over the exercise of these powers to other persons designated by the legislature. No one can read that series of statutes, as I have read them, without coming to the conclusion that it was a gross breach of the organic law as passed by Congress and a gross usurpation of the functions of the Executive as created by that law. Governor General Harrison in acquiescing in it not only violated the plain provisions of the act, but disregarded the specific written instructions of his chief, Secretary of War Baker. When General Wood came here as Governor General he came here under the clear duty to uphold the original organic law. He faced the difficult task of reasserting the powers of the Executive which had been allowed to fall from the slack hands of his predecessor. He has done so with unflinching patience, tact, and moderation, but with resolute firmness. It was inevitable that he would excite the opposition of those who had been exercising these usurped duties. But there was no other course open to him as a faithful Executive. Such "deadlock" as might arise from this cause, it was his duty to face—his duty both to the American Government and to the Filipino people, both of whom he represented.

Many people have talked and some people have acted as if a law or a system of government, with which they personally disagreed, could be whittled down or usurped away until it becomes satisfactory to their desires. But this is a very dangerous doctrine for public officers to follow, and it is not a doctrine which has ever been followed by Leonard Wood.

It is inevitable when such an issue is presented to an American administration, as it was presented to President Coolidge two years ago, that that administration should take just the position which Mr. Coolidge did and support Governor Wood. This was no evidence of reactionary policy toward the Philippine Islands, but of plain mental honesty toward a statute enacted by an American Congress and carried out by a faithful American Governor General.

This seems to me to be the simple analysis of the situation and I am glad to see that apparently it is at last becoming generally grasped. I am glad to see that after 10 months' residence in the United States, presumably studying the feeling of the American people on this subject, Senator Osmena has publicly taken his position in favor of cooperation with the American Government and of conciliatory methods toward the treatment of these questions. I think that is the wise and statesmanlike position for him to take, and I hope it will prevail generally.

The system of government created by the Jones law is a good system, it is in accord with American precedent and with Filipino desires. I have talked, during my visit, with leading Filipino statesmen, as well as with the Governor General, over future action under the provisions, and I have been pleased to find that their views seemed to be substantially in accord. In my opinion the time is ripe for a fresh start of sympathetic cooperation under the system of the Jones Act, forgetting past differences and endeavoring in a spirit of mutual forbearance and confidence to settle the new questions as they arise.

It is only by such mutual forbearance, confidence, and respect between the representatives of the Filipino people and of the American people, meeting here

face to face in these islands that the long and difficult problem which 26 years ago we set out to solve can be satisfactorily and honorably solved.

MANILA, September 8, 1926.

### STATEMENT OF HON. EDGAR R. KIESS, CHAIRMAN COMMITTEE ON INSULAR AFFAIRS

Mr. KIESS. The purpose of the accounting features of the bill is to make the duties of the auditor conform with the duties of the Comptroller General of the United States as established by Congress, and to insure that all expenditures of the Philippine government shall be subject to audit and settlement by the auditor who is an independent official appointed by the President of the United States. That these purposes are sound has been recognized in this country for many years. In the early days the Post Office Department accounts were not subject to audit and settlement by an auditor and the situation became so unsatisfactory that Postmaster General Kendall, in his annual report of December 4, 1835, recommended that the audit and settlement of claims of his department be performed by an auditor independent of the Post Office Department. He said:

It is believed to be a sound principle that public officers, who have an agency in originating accounts should have none in their settlement \* \* \*. If from any cause an illegal expenditure be directed by the head of a department, it is the duty of the disbursing agent not to pay it; and if he does pay it, it is the duty of the auditors and comptrollers to reject the item in the settlement of his accounts.

Congress established such an independent audit of the Post Office Department by the act of July 2, 1836 (5 Stat. 80), and it has continued to the present time. In the early days there was some dispute between the executive departments and the comptrollers of the United States Treasury as to whether their settlements were final and conclusive on the executive departments, but this dispute was settled in favor of the contentions of the comptrollers by the act of March 30, 1868 (15 Stat. 54), which provided that such settlements should "be taken and considered as final and conclusive upon the executive branch of the Government." There was a recommendation before Congress in 1869 for repeal of this provision, but the House Committee on Revision of the Laws reported unfavorably thereon. The committee said that—

\* \* \* Power in the head of the War or any other department to set aside and change the findings of the accounting officers of the Government is at war with the whole principle upon which the system is based; that the allowance and settlement of the disbursement of all public funds should be vested wholly in a set of officers other and different from those who made the expenditure. If their allowances and settlements can be set aside and changed by the head of the department under whose direction the money was paid or the claim accrued, then the whole system of checks to improper expenditures, which it was supposed had been established, falls to the ground. (26 Cong. Rec. 4342.)

No change has ever been made in this provision, except to drop therefrom in the Dockery Act of July 31, 1894 (28 Stat. 208), the authority of the courts to review such settlements, and same, as modified, was carried into the organic act as to the effect of the settlement of the auditor for the Philippine Islands. As was said by the Court of Claims in *Geddes v. United States* (38 Ct. Cls. 428) at page 444:

The accounting officers are the guardians of the appropriations. It is their business to see that no money is paid out of the Treasury unless the payment

is authorized by an appropriation act. It is not their business to adjudicate abstract questions of legal right beyond the legal right of a person to be paid out of a specific appropriation. An appropriation constitutes the means for discharging the legal debts of the Government.

The judgment of a court has nothing to do with the means—with the remedy for satisfying a judgment. It is the business of courts to render judgments, leaving to Congress and the executive officers the duty of satisfying them. \* \* \*

President Coolidge said in his annual message in 1925 (67 Cong. Rec. 121), with respect to the independence of the accounting officers of the United States, that Congress—

ought to resist every effort to weaken or break down this most beneficial system of supervising appropriations and expenditures. Without it, all the claim of economy would be a mere pretense.

The accounting officers are concerned exclusively with the availability of appropriations to pay claims and only incidentally are they concerned with the abstract legal merits of claims. The appropriations can be as broad or as restricted as the lawmaking power may deem proper.

The lack of control, except by the lawmaking power, of the auditor in his determination of the availability of appropriations to pay claims was ignored by the Supreme Court of the Philippine Islands in the Ynchausti case and the decision was affirmed by the Supreme Court of the United States in an opinion dated December 14, 1926. The result of such a situation was pointed out by the Supreme Court of the United States in a mandamus action against the Secretary of the Treasury in *United States v. Guthrie* (17 Howard, 284) at page 303 where the court said that its—

\* \* \* Simple statement would seem to carry with it the most startling considerations—nay, its unavoidable negation, unless this should be prevented by some positive and controlling command; for it would occur, a priori, to every mind, that a treasury, not fenced round or shielded by fixed and established modes and rules of administration, but which could be subjected to any number or description of demands, asserted and sustained through the undefined and undefinable discretion of the courts, would constitute a feeble and inadequate provision for the great and inevitable necessities of the Nation. The Government, under such a régime, or, rather, under such an absence of all rule, would, if practicable at all, be administered not by the great departments ordained by the Constitution and laws and guided by the modes therein prescribed, but by the uncertain and perhaps contradictory action of the courts in the enforcement of their views of private interests.

There appears no question but that the auditor has jurisdiction and authority to audit and settle all other claims than customs claims against the Philippine Government. The decision of the courts in the Ynchausti case denies him such jurisdiction in customs cases with the result that at present there is no audit and settlement of such claims independent of the collector who may collect as little or refund as much as he sees fit without any check whatever unless the Philippine Government appeals from his action to the courts. This has never been true of collectors of customs in the United States. Every collection and every refund of customs in the United States is subject to the audit of comptrollers of customs, as provided in section 523 of the tariff act of September 11, 1922 (42 Stat. 974), amending the act of March 2, 1799 (1 Stat. 642), which was carried into the Revised Statutes as section 2626. The amendment merely changed the name of such officers from naval officers to comptrollers of customs. Section 7 of the act of July 31, 1894 (28 Stat. 206), also requires the

Auditor for the Treasury to perform the duties of his predecessor of auditing and settling "all accounts relating to the customs service."

It was the intention of Congress in section 24 of the organic act of August 29, 1916, to confer on the auditor authority to audit all customs accounts instead of creating separate comptrollers of customs in the Philippine Islands. The conference report on the organic act is contained in Senate Document No. 530. Senator Hitchcock, in explaining the report (53 Cong. Rec. 12592), said:

The House conferees also conceded another amendment which the Senate incorporated in the bill, and that was that an auditor for the islands for the Philippine government, for the provincial governments, and for the municipal governments should be appointed by the President of the United States; that he should have an assistant auditor; and that all the accounts of the Philippine government and its officials, the accounts of the municipal governments, and of the provincial governments should pass through the hands of this auditor. This is for the purpose of insuring in the future what has been true of the past—a protection against the possibility of graft or the misappropriation of funds in the islands.

Mr. Jones, the author of the organic act, said in the House (53 Cong. Rec. 12836) with reference to the auditor that—

The Senate bill also provided for the appointment by the President of an auditor and a deputy auditor. The House bill contained no such provision. The conferees on the part of the Senate insisted that it was important that there should be an auditor and a deputy auditor to supervise the accounts of the islands, and the House conferees yielded the point.

It can not be argued that the collectors in the Philippine Islands should have greater power than collectors in the United States, and since it is a well-recognized proposition that public policy requires accounts and claims to be audited and settled independent of the officer whose acts give rise to them and since the courts have held that Congress failed to carry out its intention in the organic act to provide an independent audit of customs accounts, this bill gives the auditor the same jurisdiction over customs accounts as is possessed by comptrollers of customs in the United States and makes his decision final, subject to review by the Governor General or by the courts in a suit against the Philippine Government.

It has been also provided that payment of balances found due by the auditor may be made by the treasurer of the Philippine Islands on the auditor's certificate. This is in accordance with the procedure of paying balances found due by the Comptroller General who is not required, for instance, to persuade the Secretary of War to draw a check for payment of a claim arising in the War Department and concerning which the Comptroller General and the Secretary of War may conceivably have differences of opinion. Where the auditor must depend on the head of some one of the departments of the Philippine government to draw a check in payment of claims allowed by him, such head of a department is a check on the auditor, instead of the auditor being a check on the department, as the law intends.

These are the only accounting changes of consequence made by the bill in the existing law.

The bill confers on the auditor the same jurisdiction to examine banking institutions in the Philippine Islands as is now conferred by law on the Comptroller of the Currency over national banks in the United States. The Governor General has strongly recom-

mended that the auditor be given the power to examine banking institutions in the Philippine Islands, and this bill extends to those islands the authority which years of experience in the United States found to be beneficial to both the people and business in the United States in its conduct of national banks. The bill provides for an additional assistant auditor experienced in the conduct of national banks to have charge of this examining work. The auditor's office is the proper place for this authority because he is independent of politics in the Philippine Islands and it is the duty of the American Government to foster the welfare of the Philippine people.

The bill confers on existing courts in Manila jurisdiction to hear and determine contract claims against the Philippine Government and changes the procedure slightly to require suits arising over the collection of customs and taxes to be brought against the Philippine Government instead of against the collectors as is now the practice under local law. This change in procedure is made for the sake of uniformity and because the Philippine government and not the collector is the real party in interest. Also, the procedure of suing the Philippine government instead of some official thereof is more in harmony with the better procedure in the United States. The attorney general of the Philippine Islands is required by the terms of the bill to assist the auditor in the defense of such suits and provision is made for payment of 4 per cent interest in the discretion of the court and for payment of the judgment without awaiting the action of the legislature when the auditor can find and appropriation from which to pay same. The only restriction to the bringing of suit is that suit be brought within three years from the date the cause of action occurred and that the claim be first presented to the auditor so that, if possible, the expense of litigation may be saved to all parties.

The provision for suit against the Philippine Government on contracts, expressed or implied, and on claims for customs and taxes will afford a judicial remedy when claimants are dissatisfied with the auditor's settlements. Similar provisions have been enacted by the Philippine Legislature but vetoed by the Governor General because of lack of power in the Philippine Legislature to change the jurisdiction of the Philippine courts as fixed by Congress. However, the Governor General has recommended that Congress confer on the Philippine courts jurisdiction over certain claims against the Philippine Government similar to the jurisdiction in the Court of Claims, Court of Customs, and in the Federal district courts over claims against the United States, and this the bill does.

The concluding section of the bill carries out a recommendation first made by Secretary of War Baker and repeated by his successors to increase the salaries of presidential appointees in the Philippine Government so that the best talent obtainable may be secured for service in the islands. Also, since such recommendations Congress has increased the salaries of Members of Congress and of the judges of the Federal courts. This bill increases the salaries of the judges of the supreme court in the Philippine Islands to conform with the salaries fixed for the judges of the lower Federal courts in the United States. It also increases the salary of the Governor General and makes provision for employment of civilian assistants to take the place of his present military assistants.

These increased salaries are not to be paid by the Philippine Government but are to be defrayed out of taxes collected from the American people on imports from the Philippine Islands. These taxes, or customs, will be deposited in the United States Treasury as a special Philippine fund and appropriated each year by Congress to pay these salaries and for the use and benefit of the Philippine people instead of being deposited in the Philippine treasury as at present.

Under the terms of H. R. 16868 all internal revenue taxes collected in the United States on Philippine products imported into the United States would be turned into the United States Treasury instead of going into the general Philippine treasury as provided under existing law. The expenditure of this fund by the Governor General would be under the supervision and control of the Secretary of War. The Governor General would prepare a budget showing the amount of money needed, and for what purpose, and submit same to the Secretary of War for his approval. The Secretary of War, if he approved same, would include the amount in his estimate submitted to Congress and the money would be appropriated by Congress. The amount that may be appropriated is limited under the bill to the total collections of such taxes during the fiscal year two years prior to that for which such appropriations are made available. Under the provisions of the bill Congress retains the control of the expenditure of this fund.

Since 1902 all these taxes, which are mainly on Philippine cigars consumed in this country, have been paid into the Philippine treasury. This money is collected in the United States from the American people. Under the present law it constitutes a gift by us to the Philippine Government. The original object of this gift was to help the Filipinos defray the expenses of their government, but the necessity for this has ceased to exist since the Philippine Government has for some years been self-supporting.

However, there is a real need by the Governor General of the Philippines for a fund which he can use for the employment of necessary civilian assistants and in the administration and promotion of public health, sanitation, education, and general welfare in the Philippine Islands.

Under the present system the Governor General of the Philippines has absolutely no fund which he can use in time of crisis or emergency. Having no control over appropriations by the Philippine Legislature, he can not provide himself with the necessary trained and capable civilian assistants. The Governor General has been criticized because he had to rely upon Army officers detailed from the War Department for necessary executive assistants. The duties and responsibilities of the Governor General are great. Under his direction much progress has been made, but much remains to be done.

President Coolidge in his annual message recommended that legislation be passed to provide means for the Governor General to employ the civilian experts he needed and that they be paid out of the revenue which our Government now turns back to the Philippine treasury.

It is believed that the furtherance of American ideals and the upholding of American prestige could be materially helped by congressional control of this fund to be expended through the medium

of the Governor General. This money represents taxes paid by the American people, and the Congress of the United States, on behalf of the people, should have the right to say how the money should be spent. So long as the United States sovereignty continues in the Philippines, the responsibility and the obligation rest upon Congress to see that the government there instituted is a success and reflects credit upon the American people.





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